

**EIGHTY-FIRST DAY**

(Friday, May 29, 1981)

The Senate met at 9:30 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

A quorum was announced present.

The Reverend Dr. Jack D. Heacock, First United Methodist Church, Austin, offered the invocation as follows:

Dear Father:

When You created the heavens and the earth, You waited until the last day to work the crowning glory of Your creation!

As the senators, lobbyists and staffs come to the end of their work, bless their efforts, that the laws they produce will become a blessing to all the people of Texas.

We pray in the names of Abraham, Isaac, Jacob, and Jesus Christ our Lord. Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**REPORTS OF STANDING COMMITTEES**

Senator Blake submitted the following report for the Committee on Administration:

**H.C.R. 60**  
**H.C.R. 201**  
**H.C.R. 191**  
**H.C.R. 189**  
**H.C.R. 23**

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

**H.B. 2127**  
**H.B. 2307**  
**H.B. 969**  
**H.B. 2365**  
**H.C.R. 199**  
**H.B. 2373**  
**H.B. 1186**  
**H.B. 2366**

Senator Jones submitted the following report for the Committee on Finance:

H.J.R. 38 (Amended)  
H.B. 325  
H.B. 505  
H.B. 1462  
C.S.H.J.R. 81 (Read first time)  
C.S.H.B. 2108 (Read first time)

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

H.B. 2401

Senator Harris submitted the following report for the Committee on Economic Development:

H.B. 1377 (Amended)  
H.C.R. 192  
H.B. 2154  
H.B. 2388  
H.B. 2148

Senator Snelson submitted the following report for the Committee on Education:

H.B. 467 (Amended)  
S.C.R. 121 (Amended)  
H.B. 514  
H.B. 1877

Senator Mauzy submitted the following report for the Committee on Jurisprudence:

H.B. 641  
H.B. 1743 (Amended)  
H.B. 1164  
H.B. 1965 (Amended)  
C.S.H.B. 1984 (Read first time)  
C.S.H.B. 1562 (Read first time)  
C.S.H.B. 1704 (Read first time)

#### SENATE RULE 96(i) SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 96(i) was suspended as it relates to the Conference Committee Report on C.S.H.B. 656.

#### SENATE RESOLUTIONS ON FIRST READING

On motion of Senator Sarpalius and by unanimous consent, the following resolutions were introduced, read first time and referred to the Committee indicated:

<b>S.C.R. 132</b> by Sarpalius Granting Billy M. Gillman permission to sue the State.	Administration
<b>S.C.R. 133</b> by Sarpalius Granting Lloyd Muennink permission to sue the State.	Administration
<b>S.C.R. 134</b> by Ogg Granting George R. Brown permission to sue the State.	Administration
<b>S.R. 775</b> by Uribe Directing the Senate Human Resources Committee to study the impact of the influx of aliens into Texas on the labor market.	Human Resources

**CONFERENCE COMMITTEE REPORT  
SENATE BILL 1237**

Senator Ogg submitted the following Conference Committee Report:

Austin, Texas  
May 26, 1981

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1237** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

OGG  
TRAEGER  
HARRIS  
SANTIESTEBAN  
PARKER  
On the part of the Senate

HENDERSON  
HARTUNG  
LEE  
On the part of the House

**CONFERENCE COMMITTEE REPORT  
SENATE BILL 1237**

**A BILL TO BE ENTITLED  
AN ACT**

relating to the authority of certain cities and counties to undertake and finance public improvements and to impose a hotel occupancy tax; amending Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1269j-4.1, Vernon's Texas Civil Statutes), by adding Section 3e.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1

SECTION 1. APPLICABILITY. This article applies only to counties with a population of more than 2,000,000, according to the most recent federal census and to counties that border the Republic of Mexico with a population of more than 90,000 according to the most recent federal census, excluding counties which contain three or more cities with populations of more than 17,500 according to the most recent federal census.

SECTION 2. IMPROVEMENTS TO ATTRACT VISITORS AND TOURISTS. A county covered by this article is authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and stadiums, including sports and other facilities (either or all) that serve the purpose of attracting visitors and tourists to the county, and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) structures, parking areas, or facilities located at or in the immediate vicinity of these public improvements to be used in connection with the public improvements for off-street parking or storage of motor vehicles or other conveyances. Any lease shall be on such terms and conditions as the county deems appropriate.

SECTION 3. REVENUE BONDS. (a) The county is authorized to issue negotiable revenue bonds to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment, or repair (any or all) of public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and stadiums, including sports and other facilities (either or all) that serve the purpose of attracting visitors and tourists to the county, and the establishment, acquisition, purchase, construction, improvement, enlargement, equipment, or repair (any or all) of structures, parking areas or facilities located at or in the immediate vicinity of these public improvements to be used in connection with the public improvements for off-street parking or storage of motor vehicles or other conveyances.

(b) The revenue bonds may be issued when duly authorized by an order passed by the commissioners court of the county and shall be secured by a pledge of and be payable from all or any designated part of the revenues of the public improvements or the parking or storage facilities, as may be provided in the order or orders authorizing the issuance of the bonds. To the extent that these revenues may have been pledged to the payment of revenue or revenue refunding bonds that are still outstanding, the pledge securing the proposed bonds shall be inferior to the previous pledge or pledges. Within the discretion of the commissioners court of the county, and subject to limitations contained in previous pledges, if any, in addition to the pledge of revenues a lien may be given in all or any part of the physical properties acquired out of the proceeds from the sale of the bonds.

(c) When any of the revenues of the public improvements and facilities are pledged to the payment of bonds issued under this article, it is the duty of the commissioners court of the county to cause to be fixed, maintained, and enforced charges for services rendered by properties and facilities, the revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants and provisions contained in the order or orders authorizing the issuance of the bonds.

(d) If the county leases as lessee any one or more of these public improvements, structures, parking areas, or facilities, the county shall have authority to pledge to the lease payments required to be made by the county all or any part of the revenues of the public improvements, structures, parking areas, or facilities.

**SECTION 4. HOTEL OCCUPANCY TAX.** (a) The commissioners court of the county by order may levy a tax on the cost of occupancy of any sleeping room in a hotel in the county for which the cost of occupancy is at the rate of \$2 or more per day. The tax may not exceed the applicable percentage specified in this section of the consideration paid to the hotel by the occupant of the sleeping room.

(b) As to a hotel located in an incorporated city with a population of 1,200,000 or more, according to the most recent federal census, the applicable percentage is three percent until January 1, 1984, and one percent on or after that date. As to any other hotel, the applicable percentage is seven percent.

**SECTION 5. VALIDATION.** All orders heretofore passed and adopted by the governing body of a county levying a tax on the cost of occupancy of any sleeping room furnished by any hotel, where the cost of occupancy is at the rate of \$2 or more per day and the tax is equal to or less than two percent of the consideration paid by the occupant of the room in the hotel, and any bonds heretofore issued that are secured in whole or in part by a pledge of the tax are hereby in all respects validated and held to be enforceable as of the respective date of passage and adoption of the orders levying the tax or issuing the bonds. All occupancy taxes to be levied or attempted to be levied pursuant to the orders are hereby validated and declared fully enforceable to the same extent as if levied or attempted to be levied pursuant to valid laws duly enacted by the legislature of this state specifically providing authority for the passage and adoption of the orders and the levy of the taxes.

**SECTION 6. USE OF REVENUE.** (a) The revenue derived from any occupancy tax authorized or validated by this article may only be used for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and stadiums, including sports and other facilities (either or all) that serve the purpose of attracting visitors and tourists to the county, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants; and

(3) those counties bordering the Republic of Mexico, as provided in Section 1 of Article 1 of this Act, advertising for general promotion and tourist advertising of the country and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the county.

(b) Any county that levies and collects an occupancy tax that is authorized or validated by this article may pledge a portion of the revenue derived therefrom to the payment of the bonds that the county may issue pursuant to the provisions of Section 3 of this article, if the bonds are issued solely for one or more of the purposes set forth in this article.

**SECTION 7. DEFINITIONS.** In this article:

(1) "Hotel" means any building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels; motels; tourist homes, houses, or courts; lodging houses; rooming houses, or

other buildings where rooms are furnished for a consideration, but "hotel" shall not be defined as to include hospitals, sanitariums, or nursing homes.

(2) "Consideration" means the cost of the room in the hotel only if the room is one ordinarily used for sleeping and shall not include the cost of any food served or personal services rendered to the occupants of the room not related to the cleaning and readying of the room for occupancy.

(3) "Occupancy" means the use or possession or the right to the use or possession of any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession extends for a period of less than 30 days.

(4) "Occupant" means anyone who for a consideration uses, possesses, or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping.

**SECTION 8. RIGHTS OF BONDHOLDERS.** The owners or holders of these revenue or revenue refunding bonds shall never have the right to demand payment of either the principal of or interest on the bonds out of any funds raised or to be raised by taxation, except as to room taxes, if pledged.

**SECTION 9. ORDERS RELATING TO BONDS.** In the order or orders authorizing the issuance of any revenue or revenue refunding bonds authorized by this article, the county may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds and make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities, the revenues of which are pledged, including provision for the operation or for the leasing of all or any part of said improvements or facilities and the use or pledge of money derived from such operation, contracts and leases, as it may deem appropriate. The order or orders may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenues on a parity with or subordinate to the lien and pledge in support of the bonds being issued, subject to the conditions as are set forth in the order or orders. The order or orders may contain other provisions and covenants, as the county may determine, not prohibited by the Constitution of Texas or by this article, and the county may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of any of the bonds.

**SECTION 10. RESERVE FUNDS; INVESTMENTS.** From the proceeds of sale of any bonds issued under this article, the county may appropriate or set aside, out of the bond proceeds an amount for the payment of interest expected to accrue during the period of construction, an amount or amounts to be deposited into the reserve fund or funds as may be provided in the bond order or orders, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds. Until such time or times as the bond proceeds are needed to carry out the bond purpose, the bond proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, or both. Money in the interest and sinking fund or funds, in the reserve fund or funds, and in any other fund or funds established or provided for in the bond order or orders may be invested in such a manner and in such securities as may be provided in the bond order or orders.

**SECTION 11. FORMAL REQUIREMENTS; MATURITY; APPROVAL AND REGISTRATION.** All bonds shall be signed by the county judge and countersigned by the county clerk and shall have the seal of the county impressed on them; provided that the bond order or orders may provide for the bonds and any attached interest coupons to be signed by facsimile

signatures and for the seal of the county on the bonds to be a facsimile as provided by Chapter 204, Acts of the 57th Legislature, Regular Session, 1961 (Article 717j-1, Vernon's Texas Civil Statutes). The bonds shall mature serially or otherwise in not to exceed 40 years from their date or dates and may be sold at a price and under such terms determined by the commissioners court of the county to be most advantageous and reasonably obtainable, and within the discretion of the commissioners court, the bonds may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the order or orders authorizing the bonds. Any of the bonds may be made registrable as to principal or as to both principal and interest. All bonds issued under this article and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity hereof, and after the attorney general has approved them, the bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When the bonds have been approved by the attorney general, registered by the comptroller, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud.

**SECTION 12. REFUNDING BONDS.** The county shall have the power and authority to issue revenue refunding bonds similarly secured to refund either original bonds or revenue refunding bonds previously issued by the county under this article, and the refunding bonds shall bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Refunding bonds shall be authorized by order or orders and shall be executed and shall mature as is provided in this article for original bonds. They shall be approved by the attorney general as in the case of original bonds and shall be registered by the comptroller on the surrender and cancellation of the bonds to be refunded, but in lieu thereof the order or orders authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on and principal of the underlying bonds to their option or maturity date, and the comptroller shall register them without the surrender and cancellation of the underlying bonds. All such refunding bonds, after they have been approved by the attorney general and registered by the comptroller, shall be incontestable except for forgery or fraud.

**SECTION 13. NEGOTIABILITY; AUTHORIZED INVESTMENTS; USE AS SECURITY.** All bonds issued under this article, whether original bonds or refunding bonds, shall be and are hereby declared to be and to have all the qualifications of negotiable instruments under Chapter 8, Business & Commerce Code, and all the bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies of every kind or type, fiduciaries, trustees, guardians, and the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. The bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

**SECTION 14. CUMULATIVE EFFECT.** This article is cumulative of all existing laws of this state, but to the extent that existing laws may be in conflict or inconsistent with the provisions of this article, the provisions of this article

shall govern and prevail; and this article shall take precedence over any and all conflicting or inconsistent county charter provisions.

**SECTION 15. REIMBURSEMENT FOR COLLECTING TAX.** A county imposing the tax authorized by this article may permit the person required to collect the tax to deduct and withhold from the person's payment to the county, as reimbursement for the cost of collecting the tax, an amount not to exceed one percent of the tax collected.

#### **ARTICLE 2**

**SECTION 1.** Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1269j-4.1, Vernon's Texas Civil Statutes), is amended by adding Section 3e to read as follows:

**"Section 3e. SPECIAL PROVISIONS FOR CERTAIN ELIGIBLE CITIES. (a) For purposes of this section:**

**"(1) 'Eligible city' means any city that has a population of at least 1,200,000, according to the most recent federal census, and that pursuant to an ordinance adopted by its governing body has approved and adopted a capital improvement plan for convention and exposition facilities for such city.**

**"(2) 'Convention and exposition facilities' means public structures, such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, or other city buildings, that are suitable for use as convention and exposition facilities, and parking facilities located at or in the immediate vicinity of such public structures to be used in connection with those public structures for off-street parking or storage of motor vehicles or other conveyances.**

**"(b) Subject to the limitations described in Subsections (c), (d), and (e) of this section, each eligible city may:**

**"(1) levy by ordinance on the cost of occupancy of any sleeping room furnished by any hotel, in which the cost of occupancy is at the rate of \$2 or more per day, (A) a tax not to exceed four percent of the consideration paid by the occupant of the sleeping room to the hotel during the period beginning with the calendar quarter following the quarter in which this section is enacted and ending on December 31, 1983, and (B) a tax not to exceed six percent of the consideration paid by the occupant of the sleeping room to the hotel beginning with the first calendar quarter following December 31, 1983; and**

**"(2) pledge to the payment of revenue bonds and revenue refunding bonds issued pursuant to this Act all or any portion of the revenues derived from the occupancy tax described in Subdivision (1) of this subsection, notwithstanding any provision to the contrary contained in Subsection (b) of Section 3c of this Act, and all or any portion of any other revenues of such eligible city as the governing body thereof shall determine in the ordinance authorizing the issuance of such bonds.**

**"(c) As a condition precedent to the issuance by an eligible city of any revenue bonds secured in whole or in part from the revenues derived from the occupancy tax described in Subdivision (1) of Subsection (b) of this section, an eligible city shall certify that the average annual debt service on all such bonds outstanding prior to the date of issuance, and in the process of issuance, secured in whole or in part by the pledge of revenues derived from the occupancy tax described in Subdivision (1) of Subsection (b) of this section, and which were issued for purposes other than convention and exposition facilities, shall not exceed the sum of the maximum annual revenues that such city could derive from such occupancy tax under the sections of this Act other than this section plus any other revenues pledged to the payment of such bonds.**

**"(d) Consistent with the requirements of Subsection (b) of Section 3c of this Act, any city which levies and collects a tax in excess of four percent under the provisions of this section shall reserve that portion of the tax revenues which**



are derived from the percentage of the tax in excess of four percent solely for the purposes described in Subdivision (1) of Subsection (a) of Section 3c of this Act and for the purpose of securing refunding bonds issued in connection therewith.

"(e) The taxing authority granted under this section is in lieu of and not in addition to the taxing authority granted under Section 3a of this Act. Accordingly, any eligible city which levies and collects a tax under this section is prohibited from levying and collecting a tax under Section 3a of this Act.

"(f) An eligible city imposing the tax authorized by this section may permit the person required to collect the tax to deduct and withhold from the person's payment to the city, as reimbursement for the cost of collecting the tax, an amount not to exceed one percent of the tax collected.

"(g) Revenue received under this section not in excess of 4 percent may be used by the city as provided by Section 3c of this Act."

### **ARTICLE 3**

SECTION 1. Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1269j-4.1, Vernon's Texas Civil Statutes), is amended by adding Section 3f to read as follows:

"Section 3f. (a) In this section, 'eligible coastal city' means a home-rule city that borders on the Gulf of Mexico and that has a population of less than 75,000, according to the most recent federal census. The definitions contained in Section 3d of this Act apply to this section.

"(b) In lieu of the taxes authorized by Section 3a of this Act, an eligible coastal city may levy by ordinance on the cost of occupancy of any sleeping room furnished by any hotel, in which the cost of occupancy is \$2 or more a day, a tax not to exceed seven percent of the consideration paid by the occupant of the sleeping room to the hotel.

"(c) A city that levies and collects an occupancy tax authorized by this section may pledge a portion of the revenue equal to not more than one percent of the cost of the occupancy of hotel rooms to the payment of the bonds which the city may issue pursuant to the provisions of Section 3 of this Act. The city is authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that serve the purpose of attracting visitors and tourists to the city and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) structures, parking areas, or facilities located at or in the immediate vicinity of these public improvements to be used in connection with the public improvements for off-street parking or storage of motor vehicles or other conveyances. Any lease under this subsection shall be on the terms and conditions the city deems appropriate.

"(d) If the tax authorized by this section is levied by the city at a rate of four percent or more, an amount of revenue equal to at least three percent of the cost of the occupancy of hotel rooms shall be reserved for the purpose of advertising and conducting solicitation programs to acquaint potential users with public meeting and convention facilities and for promotion of tourism and advertising of the city and its vicinity either by the city or through contract with persons or organizations selected by the city.

"(e) If the tax authorized by this section is levied by the city at a rate of five percent or more, an amount of revenue equal to at least one percent of the cost of the occupancy of hotel rooms shall be reserved for beach patrol, lifeguard services, and marine water safety under the provisions of Senate Bill 713, Acts of the 67th Legislature, Regular Session, 1981.

"(f) If the tax authorized by this section is levied by the city at a rate of six percent or more, an amount of revenue equal to at least one percent of the cost of occupancy of hotel rooms shall be reserved for public beach cleaning funds for use as matching funds for state funds available to clean and maintain public beaches.

"(g) This section does not permit the impairment of any bonds issued under the provisions of this Act and all revenue previously pledged to the payment of those bonds shall continue to be reserved for the payment of the principal and interest on those bonds."

#### ARTICLE 4

SECTION 1. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### HOUSE BILL 189 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 189**, Relating to an exemption from the franchise tax for corporations that are condominium management associations.

The bill was read second time and was passed to third reading.

#### HOUSE BILL 189 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 189** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Parker, Santiesteban.

The bill was read third time and was passed.

#### HOUSE BILL 696 ON SECOND READING

Senator Ogg asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**H.B. 696**, Relating to the sales and use tax exemption of certain nonprofit organizations and organizations qualifying for exemption from federal income taxation.

There was objection.

Senator Ogg then moved to suspend the regular order of business and take up **H.B. 696** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Andujar, Brooks, Caperton, Doggett, Glasgow, Harris, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Short, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Blake, Brown, Farabee, Howard, Jones, Sarpalius, Snelson.

The bill was read second time and was passed to third reading.

#### RECORD OF VOTE

Senator Howard asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### HOUSE BILL 696 ON THIRD READING

Senator Ogg moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 696** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Andujar, Brooks, Brown, Caperton, Doggett, Glasgow, Harris, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Short, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Blake, Farabee, Howard, Jones, Sarpalius, Snelson.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 6. (Same as previous roll call)

#### HOUSE BILL 1708 ON SECOND READING

On motion of Senator Jones and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1708**, Adopting Title 2, Tax Code, a nonsubstantive revision of the statute relating to the imposition, collection and enforcement of, and the allocation of revenue from, state taxes, other than ad valorem property taxes.

The bill was read second time.

#### FLOOR PRIVILEGES GRANTED

On motion of Senator Jones and by unanimous consent, floor privileges were granted to James Nance of the Legislative Council in order that he might sit at Senator Jones' desk during discussion of **H.B. 1708**.

Senator Jones offered the following committee amendment to the bill:

Amend **H.B. 1708**, House Engrossment, as follows:

- (1) On page 4, line 41, add "state" between "by" and "law".
- (2) On page 8, line 6, strike ", assist, and give" and substitute "and give reasonable assistance and".
- (3) On page 12, line 20, add after "code.": "This subsection does not apply to the taxes imposed by Chapter 152 of this code except as provided by Section 152.045(a) of this code."
- (4) On page 104, line 18, after "accrued.", insert "The interest rate on the amount of tax due under this section is 10 percent a year."
- (5) On page 13, lines 19 and 20, strike "less the amount of credits made".
- (6) On page 15, line 9, add "information contained in" between "(3)" and "the".
- (7) On page 15, line 41, strike "may" and substitute "shall".
- (8) On page 15, line 47, add "(a)" between "PERIOD." and "In" and add, on page 16, after line 5, the following:

"(b) The suspension of a period of limitation under Subsection (a) of this section applies only to the amount of taxes in issue under Subdivision (1), (2), or (3) of that subsection."
- (9) On page 18, strike line 7 and substitute "person shall pay the amount claimed by the state, and if the person intends to bring suit under this subchapter, the person must submit".
- (10) On page 18, lines 46 and 51, strike "hearing on the suit" and substitute "trial".
- (11) On page 55, line 28, strike "for any purpose other than a use" and substitute ", but not if".
- (12) On page 57, line 30, strike "transferring" and substitute "transporting".
- (13) On page 58, line 30, add "or permit the comptroller to examine the record at the out-of-state location" between "examination" and the period.
- (14) On page 67, line 47, strike "surplus".
- (15) On page 100, strike lines 7 and 8 and substitute the following: "every retail sale of every motor vehicle sold in this state. The tax is an obligation of and shall be paid by the purchaser of the motor vehicle."
- (16) On page 100, line 12, add "use" between "A" and "tax".
- (17) On page 100, line 19, add "use" between "A" and "tax".
- (18) On page 101, line 2, add "use" between "A" and "tax".
- (19) On page 212, strike lines 46 through 51; on page 213, strike lines 1 through 3; and substitute:

"Sec. 171.052. CERTAIN CORPORATIONS. A corporation that is an insurance company; surety, guaranty, or fidelity company; transportation company; or sleeping, palace car, and dining company now required to pay an annual tax measured by their gross receipts is exempted from the franchise tax. (Title 122A, Art. 12.03, Sec. (1) (part).)"
- (20) On page 218, line 30, add ", with respect to all or any part of the corporation's business activity," between "use" and "an".
- (21) On page 218, lines 33 and 34, strike "in the allocation formula established by Section 171.106 of this code" and substitute "that will fairly represent the corporation's business activity in this state".
- (22) On page 218, line 35, strike "another" and substitute "the employment of any other".
- (23) On page 219, line 44, strike "the" after "against" and substitute "any".
- (24) On page 222, line 19, strike "file with" and substitute "furnish to".
- (25) On page 251, line 50, strike "MARKET".

(26) On page 252, strike lines 1 through 3 and substitute the following:  
“Sec. 201.101. MARKET VALUE. The market value of gas is its value at the mouth of”.

(27) On page 252, line 7, strike “market value is” and substitute “tax shall be computed on”, and strike “for the gas”.

(28) On page 252, line 12, strike “MARKET”.

(29) On page 252, strike lines 14 and 15 and substitute the following:  
“products extracted from the gas, a portion of the residue gas, or both, the tax shall be computed on the gross value of all things of value”.

(30) On page 252, line 21, strike “market” and substitute “taxable”.

(31) On page 252, line 37, strike “MARKET”.

(32) On page 252, line 38, strike “market” and substitute “taxable”.

(33) On page 252, line 41, strike “market” and substitute “taxable”.

(34) On page 252, line 43, strike “MARKET” and “market”.

(35) On page 252, line 44, add “for the purpose of computing the tax due on it” between “condensate” and “is”.

(36) On page 253, line 12, strike “in cash or by” and substitute “by legal tender or”.

(37) On page 253, strike lines 42 through 47 and substitute the following:  
“Sec. 201.205. TAX BORNE RATABLY. The tax shall be borne ratably by all interested parties, including royalty interests. Producers or purchasers of gas, or both, are authorized and required to withhold from any payment due interested parties the proportionate tax due and remit it to the comptroller.”

(38) On page 259, strike lines 28 and 29 and substitute the following: “the affairs of producers and purchasers to determine whether the tax imposed by this chapter is being properly reported and paid. (Title 122A, Art. 4.11 (part).)”

(39) On page 261, line 17, strike “in cash or by” and substitute “by legal tender or”.

(40) On page 261, strike lines 47 through 51; on page 262, strike line 1; and substitute the following:

“Sec. 202.156. TAX BORNE RATABLY. The tax shall be borne ratably by all interested parties, including royalty interests. Producers or purchasers of oil, or both, are authorized and required to withhold from any payment due interested parties the proportionate amount of tax due. (Title 122A, Arts.)”

(41) On page 262, line 6, add “or his authorized agent” between “producer” and “shall”.

(42) On page 262, line 20, add “or his authorized agent” between “purchaser” and “shall”.

(43) On page 262, line 38, add “or his authorized agent” after “purchaser”.

(44) On page 277, strike lines 13 through 25 and substitute the following:  
“Sec. 211.201. DEDUCTIONS: DEBTS, FUNERAL EXPENSES, AND LAST ILLNESS EXPENSES. Debts due by the estate, funeral expenses, and expenses incidental to the last illness of the deceased, which are due and unpaid at the time of death, may be deducted from the estate before determination of the inheritance tax. (Title 122A, Art. 14.10 (part).)”

(45) On pages 277 and 278, renumber Sections 211.204 through 211.208 as Sections 211.202 through 211.206.

(46) On page 283, line 24, add “final assessment and determination of the” between “the” and “value”.

(47) On page 283, line 25, add “assessed and” between “as” and “determined”.

(48) On page 283, line 31, strike "valuation" and substitute "assessment and determination of the value".

(49) On page 6, line 25, add "that do not conflict with the laws of this state or the constitution of this state or the United States" between "rules" and "for".

(50) Conform the tables of contents to the amendments contained in this amendment.

(51) Amend and relocate the parenthetical source law citations to conform to the amendments contained in this amendment.

(52) On page 58, line 21, add "reasonably" between "comptroller" and "requires".

(53) On page 74, line 23, strike "mineral" and substitute "material".

(54) On page 78, line 37, add "and labor" between "materials" and "used".

The committee amendment was read and was adopted.

Senator Jones offered the following committee amendment to the bill:

Amend **H.B. 1708**, House Engrossment, as follows:

**I. Amendments to conform Title 2, Tax Code, to S.B. 655**

(1) On page 7, strike lines 39 through 46 and substitute the following:

For the purpose of carrying out the terms of this title the comptroller may examine at the principal or any other office in the United States of any person, firm, agent, or corporation permitted to do business in this state, all books, records and papers and also any of their officers or employees under oath.

(2) On page 7, line 48, strike "authorized by Subsection (a)(1) of this section".

(3) On page 7, line 49, strike "(2)" between "(a)" and "of".

(4) On page 8, line 10, add ", opened to public inspection," between "publicly" and "or".

(5) On page 8 strike lines 15 through 21 and substitute the following:

(2) all information secured, derived, or obtained by the comptroller or the attorney general during the course of an examination of the taxpayer's books, records, papers, officers, or employees, including an examination of the business affairs, operations, source of income, profits, losses, or expenditures of the taxpayer.

(b) All information made confidential in this title may not be subject to subpoena directed to the comptroller or the attorney general except in a judicial or an administrative proceeding in which this state, another state, or the federal government is a party.

(c) The comptroller or the attorney general may use information or records made confidential by provisions of this title to enforce any provisions of this title or may authorize their use in a judicial or an administrative proceeding in which this state, another state, or the federal government is a party. (Title 122A, Art. 1.031, Secs. (3) and (4), Art. 1.035, Sec. (1).)

**II. Amendment to conform Title 2, Tax Code, to S.B. 371**

(1) On page 8 add the following between lines 2 and 3:

(d) The comptroller's authority to examine books, records, and papers under this chapter extends to all books, records, papers, and other objects which the comptroller determines are necessary for conducting a complete examination under this title.

(2) On page 8, add the following between lines 3 and 4:

Sec. 111.0041. RECORDS. (a) Any taxpayer who is required by this title to keep records shall keep those records open to inspection by the comptroller, the attorney general, or the authorized representatives of either of them for four years.

(b) This section prevails over any other conflicting provision of this title except Section 191.024(b) of this code. (Title 122A, Art. 1.031A.)

Sec. 111.0042. SAMPLING IN AUDITING; PROJECTING ASSESSMENTS. (a) Pursuant to a written agreement with the taxpayer, or without an agreement in cases coming within the provisions of Subsection (b)(2) of this section, the comptroller or his designee may use sample and projection auditing methods for determining tax liability when he determines that the sampling and projection will provide the most reasonable means of determining any tax imposed by this title. Should the taxpayer not agree in writing to a sample and projection audit method as provided by this section, any audit performed on the taxpayer shall be a detailed audit. The comptroller may use sample audit methods in preliminary testing to determine if an error exists without the written approval of the taxpayer, but the sample may not be used as a basis for a tax liability without the written consent of the taxpayer.

(b) Sampling auditing methods are appropriate if:

(1) the taxpayer's records are so detailed, complex, or voluminous that an audit of all detailed records would be unreasonable or impractical;

(2) the taxpayer's records are inadequate or insufficient, so that a competent audit for the period in question is not otherwise possible; or

(3) the cost of an audit of all detailed records to the taxpayer or to the state will be unreasonable in relation to the benefits derived, and sampling procedures will produce a reasonable result.

(c) Before using a sample technique to establish a tax liability, the comptroller or his designee must notify the taxpayer in writing of the sampling procedure to be used.

(d) The sample must reflect as nearly as possible the normal conditions under which the business was operated during the period to which the audit applies. If a taxpayer can demonstrate that a transaction in a sample period is not representative of the taxpayer's business operations, the transaction shall be eliminated from the sample and be separately assessed in the audit. If records are inadequate to reflect accurately the business operations of the taxpayer, the comptroller or his designee shall determine the best information available and base his audit report on that information.

(e) If the taxpayer demonstrates that any sampling method used by the comptroller was not in accordance with generally recognized sampling techniques, the audit will be dismissed as to that portion of the audit established by projection based upon the sampling method, and a new audit may be performed. (Title 122A, Art. 1.036.)

Sec. 111.0043. GENERAL AUDIT AND PREHEARING POWERS. (a) In this section:

(1) "Person" includes an individual, corporation, partner, partnership, officer, or director of a corporation, joint venture, trust, trustee, agent, or association.

(2) "Taxpayer" means the person whose tax obligation the comptroller is seeking to determine.

(b)(1) Before a determination of or a hearing on a taxpayer's tax obligation, if any, the comptroller may issue a subpoena addressed to the sheriff or constable of any county in this state to require any person who the comptroller determines may provide assistance in the examination of a taxpayer's tax obligation to appear at the place and time stated in the subpoena

for the taking of his oral deposition before an official authorized to take depositions. The subpoena may require the person to produce at the time of the deposition books, documents, records, papers, accounts, and other objects as may be specified by the comptroller. The subpoena must include a statement setting out the reason why the requested material is needed.

(2) The deposition shall be taken in the county of the person's residence or in the county where the person is employed or regularly transacts business. The subpoena shall specify that the person shall remain in attendance from day to day until the deposition is begun and completed.

(3) The officer taking the oral deposition may not sustain objections to any of the testimony taken or exclude any of it.

(4) When the testimony is fully transcribed, the deposition shall be submitted to the person for examination and read to or by the person, unless the examination and reading are waived in writing by the person and by the comptroller. However, if the person is represented by an attorney of record, the deposition officer shall notify the attorney of record in writing by registered mail or certified mail that the deposition is ready for examination and reading at the office of the deposition officer. If the person does not appear and examine, read, and sign the deposition within 10 days after the mailing of the notice, the deposition shall be returned and may be used as fully as though signed. The officer shall enter on the deposition any changes in form or substance that the person desires to make and a statement of the reasons given by the person for making them. The deposition shall then be signed by the person, unless the person and the comptroller by stipulation waive the signing or the person is ill, cannot be found, or refuses to sign. If the deposition is not signed by the person, the officer shall sign it and state on the record the fact of the waiver, illness, or absence of the person or the fact of the refusal to sign, together with the reason, if any, given for failure to sign. The deposition may then be used as fully as though signed.

(5) The deposition shall be returned to the comptroller by the official taking the deposition either by mail or by delivering it in person.

(c) Before a determination of or a hearing on a taxpayer's tax obligation, if any, the comptroller may:

(1) issue a subpoena addressed to the sheriff or constable of any county in this state to require any person to produce at the place and time stated in the subpoena books, documents, records, papers, accounts, and other objects that the comptroller determines may assist in an examination of a person's tax obligation;

(2) issue an order to a person to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation on the property that may be material to any matter involved in the examination; the order must specify the time, place, and manner of making the inspection, measurement, or survey and taking the copies and photographs and may prescribe any terms and conditions that are just;

(3) copy or conduct a complete examination of books, documents, records, papers, accounts, and other objects that are produced as a result of the subpoenas or orders specified in this section; and

(4) serve or have served by his designated agent any subpoena or order issued under this section by delivering a copy of the subpoena to the person.

(d) A person, other than the taxpayer, who is subpoenaed to give a deposition or to produce books, records, papers, or other objects under the authority of this section is entitled to receive after presentation of a voucher sworn by the person and approved by the comptroller:



(1) mileage of 20 cents a mile, or a greater amount as prescribed by agency rule, for going to and returning from the place of the hearing or the place where the deposition is taken, if the place is more than 25 miles from the person's place of residence; and

(2) a fee of \$20 a day, or a greater amount as prescribed by agency rule, for each day or part of a day the person is necessarily present as a deponent.

(c) If a person fails to comply with a subpoena or order issued under this section, the comptroller may:

(1) acting through the attorney general, bring suit to enforce the subpoena or order in a district court of Travis County; the court, if it determines that good cause exists for the issuance of a subpoena or order, shall order the compliance with the requirements of the subpoena or order; failure to obey the order of the court may be punishable by the court as contempt;

(2) use records, books, papers, and other documents obtained or depositions taken under this section only in an administrative hearing of the comptroller or a judicial proceeding brought by or against the comptroller; the information may be made available to the federal government or to another state under an exchange agreement; and

(3) delegate his authority to issue subpoenas or orders and to participate in the taking of depositions as specified in this section to any attorney employed by him.

(f) If a foreign corporation doing business in this state has such contact with this state that it becomes subject to the taxes administered and collected by the comptroller and fails to appoint or maintain a registered agent in this state, or if the registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of the corporation and may be served with any subpoena or other order issued under this section in the manner provided for service of process in Article 8.10, Texas Business Corporation Act, as amended.

(g) Any person, including the taxpayer, shall be entitled to obtain upon request a copy of any statement he has previously made concerning the examination or its subject matter and which is in the possession, custody, or control of the comptroller. Copies of statements made to the comptroller by any person which are used as a basis for an assessment against a taxpayer may be obtained by the taxpayer upon request. If the request is refused, the person may move for an agency order under this subsection. For the purpose of this section, a statement previously made is:

(1) a written statement signed or otherwise adopted or approved by the person making it; or

(2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded. (Title 122A, Art. 1.037.)

Sec. 111.0044. SPECIAL PROCEDURES FOR THIRD-PARTY ORDERS AND SUBPOENAS. (a)(1) If any order or subpoena described in Section 111.0043 of this code is served on any person who is a third-party recordkeeper, and the order or subpoena requires the production of any portion of records made or kept of the business transactions or affairs of any person (other than the person ordered or subpoenaed) who is identified in the description of the record contained in the order or subpoena, then notice of the order or subpoena shall be given to any person so identified within three days of the day on which the service on the third-party recordkeeper is made but no later than the 14th day before the day fixed in the order or subpoena as the day

upon which the records are to be examined. The notice shall be accompanied by a copy of the order or subpoena which has been served and shall contain directions for staying compliance with the order or subpoena under Subsection (b)(2) of this section.

(2) The notice shall be sufficient if, on or before the third day, the notice is delivered in hand to the person entitled to notice or is mailed by certified or registered mail to the last mailing address of the person or, in the absence of a last known address, is left with the person ordered or subpoenaed. If the notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice.

(3) For purposes of this section, the term "third-party recordkeeper" means:

(A) a mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under federal or state law, a bank as defined in Section 581 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 581), or any credit union within the meaning of Section 501(c)(14)(A), Internal Revenue Code;

(B) any consumer reporting agency as defined under Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f));

(C) any person extending credit through the use of credit cards or similar devices; and

(D) any broker as defined in Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)).

(4) Subsection (a)(1) of this section may not apply to an order or subpoena served on the person with respect to whose liability the order or subpoena is issued or an officer or employee of the person; or any order or subpoena to determine whether or not records of the business transactions or affairs of an identified person have been made or kept; or any order or subpoena described in Subsection (e) of this section.

(5) An order or subpoena to which this subsection applies shall identify the taxpayer to whom the order or subpoena relates and to whom the records pertain and shall provide other information to enable the person ordered or subpoenaed to locate the records required under the order or subpoena.

(b)(1) Notwithstanding any other law or rule of law, a person who is entitled to notice of an order or subpoena under Subsection (a) of this section shall have the right to intervene in any proceeding with respect to the enforcement of the order or subpoena under Subsection (e) of Section 111.0043 of this code.

(2) Notwithstanding any other law or rule of law, a person who is entitled to notice of an order or subpoena under Subsection (a) of this section shall have the right to stay compliance with the order or subpoena if, not later than the 14th day after the day the notice is given in the manner provided in Subsection (a)(2) of this section:

(A) notice in writing is given to the person ordered or subpoenaed not to comply with the order or subpoena;

(B) a copy of the notice not to comply with the order or subpoena is mailed by registered or certified mail to the person and to the office the comptroller directs in the notice referred to in Subsection (a)(1) of this section; and

(C) suit is filed against the comptroller in a district court of Travis County to stay compliance with the order or subpoena.

(c) No examination of any records required to be produced under an order or subpoena as to which notice is required under Subsection (a) of this section may be made:

(1) before the expiration of the 14-day period allowed for the notice not to comply under Subsection (b)(2) of this section; or

(2) when the requirements of Subsection (b)(2) of this section have been met, except in accordance with an order issued by a district court of Travis County authorizing examination of the records or with the consent of the person staying compliance.

(d) If any person takes any action as provided in Subsection (b) of this section and such person is the person with respect to whose liability the order or subpoena is issued under Section 111.0043 of this code (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under Subchapter D of this chapter with respect to the person shall be suspended for the period during which a proceeding and appeals of the proceeding with respect to the enforcement of such order are pending.

(e) Any order or subpoena issued under Section 111.0043 of this code that does not identify the person with respect to whose liability the order is issued may be served only after a court proceeding in which the comptroller establishes that:

(1) the order relates to the investigation of a particular person or ascertainable group or class of persons;

(2) there is a reasonable basis for believing that the person or group or class of persons may fail or may have failed to comply with any provision of state law; and

(3) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the order is issued) is not readily available from other sources.

(f) In the case of an order or subpoena issued under Section 111.0043 of this code, the provisions of Subsections (a)(1) and (b) of this section may not apply if, upon petition by the comptroller, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

(g)(1) A district court of Travis County has jurisdiction to hear and determine proceedings brought under Subsection (e) or (f) of this section. The determinations required to be made under Subsections (e) and (f) of this section shall be ex parte and shall be made solely upon the petition and supporting affidavits. An order denying the petition shall be deemed a final order that may be appealed.

(2) Except for cases the court considers of greater importance, a proceeding brought for the enforcement of any order, or a proceeding under this section, and appeals, take precedence on the docket over all cases and shall be assigned for hearing and decided at the earliest practicable date.

(h) The comptroller shall by rule establish the rates and conditions for payments to reimburse reasonably necessary costs directly incurred by third-party recordkeepers in searching for, reproducing, or transporting books, papers, records, or other data required to be produced by order or subpoena upon request of the comptroller. The reimbursement shall be in addition to mileage and fees paid under Subsections (d)(1) and (d)(2) of Section 111.0043 of this code. (Title 122A, Art. 1.038.)

(3) On page 14, strike lines 34 through 46 and substitute the following:

Sec. 111.201. ASSESSMENT LIMITATION. No tax imposed by this title may be assessed after four years from the date that the tax becomes due and payable. (Title 122A, Art. 1.045, Sec. (A).)

Sec. 111.202. SUI LIMITATION. At any time within three years after a deficiency or jeopardy determination has become due and payable or within three years after the last recording of a lien, the comptroller may bring an action in the courts of this state, or any other state, or of the United States in the name of the people of the State of Texas to collect the amount delinquent together with penalties and interest. (Title 122A, Art. 1.045, Sec. (B).)

Sec. 111.203. AGREEMENTS TO EXTEND PERIOD OF LIMITATION. (a) Before the expiration of the periods prescribed in Sections 111.201 and 111.202 of this code for the assessment and collection of any tax imposed by this title, the comptroller and a taxpayer may agree in writing to an assessment and collection after that time. The agreement must contain the reasons the comptroller and the taxpayer wish to extend the period. At any time before the expiration of the period agreed on, the tax may be assessed and collected or an action may be commenced in any court to collect the amount delinquent.

(b) The extended period agreed on under Subsection (a) of this section may be extended by subsequent agreements made before the expiration of the extended period. All subsequent agreements must set forth the reasons for extending the period.

(c) No single extension agreement may be for a period of more than 24 months from the expiration date of the period being extended.

(d) The period for assessment and collection of a tax may be extended if:

(1) without an extension, there might occur a revenue loss to the state;

(2) either the taxpayer or the comptroller, despite good faith efforts, requires more time to prepare for or complete the audit;

(3) without an extension, circumstances beyond the control of either the comptroller or the taxpayer would make an audit by the comptroller impractical or burdensome for either party; or

(4) an issue of law involved in the audit is awaiting determination in either litigation or an administrative proceeding. (Title 122A, Art. 1.045, Sec. (C).)

(4) On page 15, strike lines 1 through 5 and substitute the following:

Sec. 111.205. EXCEPTION TO ASSESSMENT LIMITATION. The limitation provided by Section 111.201 of this code, does not apply and the comptroller may assess a tax imposed by this title at any time if:

(5) On page 15, line 47, add "(a)" between "PERIOD." and "In" and on page 16, after line 5, add the following:

(c) A bankruptcy case commenced under Title 11 of the United States Code suspends the running of the period prescribed by any section of this title for the assessment or collection of any tax imposed by this title until the bankruptcy case is dismissed or closed. After the case is dismissed or closed, the running of the period resumes until finally expired.

(6) On page 27, strike lines 26 through 28 and substitute the following: "made with intent to defraud the state. The transfer of the property or the interest in property without adequate and sufficient consideration creates a rebuttable presumption that the transfer was made with intent to defraud the state. A transfer with sufficient consideration creates a rebuttable presumption that the transfer was not made with intent to defraud the state."

### III. Conforming amendment to Probate Code to conform citations in S.B. 371 to the citations in Title 2, Tax Code

(1) On page 309 add Section 38A to read as follows:

SECTION 38A. CONFORMING AMENDMENT. Section 322, Texas Probate Code, as amended, is amended to read as follows:

Sec. 322. CLASSIFICATION OF CLAIMS AGAINST ESTATES OF DECEDENT. Claims against an estate of a decedent shall be classed and have priority of payment, as follows:

Class 1. Funeral expenses and expenses of last sickness for a reasonable amount to be approved by the court, not to exceed Five Thousand Dollars, any excess to be classified and paid as other unsecured claims.

Class 2. Expenses of administration and expenses incurred in the preservation, safe-keeping, and management of the estate.

Class 3. Claims secured by mortgage or other liens, including tax liens, so far as the same can be paid out of the proceeds of the property subject to such mortgage or other lien, and when more than one mortgage or lien shall exist upon the same property, the oldest shall be first paid; but no preference shall be given to such mortgage or lien.

Class 4. Claims for taxes, penalties, and interest due under Title 2, Tax Code; Chapter 8, Title 132 [~~Title 122A, Taxation General~~], Revised Civil Statutes of Texas, 1925, as amended; Section 81.111, Natural Resources Code; the Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes); Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes); or Section 16, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes).

Class 5. All other claims legally exhibited within six months after the original grant of letters testamentary or of administration.

Class 6. All claims legally exhibited after the lapse of six months from the original grant of letters testamentary or of administration.

**IV. Amendments to Title 2, Tax Code, to conform to the effective date and savings provisions of Acts of the 67th Legislature incorporated into Title 2, Tax Code**

(1) On page 310, add the following after line 47:

(k) S.B. 655, Acts of the 67th Legislature, Regular Session, 1981, is repealed.

(l) Sections 1 through 8 of S.B. 371, Acts of the 67th Legislature, Regular Session, 1981, are repealed. Section 10 of S.B. 371, Acts of the 67th Legislature, Regular Session, 1981, applies to the provisions of Title 2, Tax Code, that incorporate the amendments contained in S.B. No. 371 in the same manner that Section 10 of S.B. 371 applies to the provisions of S.B. 371.

**V. Conforming instructions**

(1) Conform the tables of contents to the amendments contained in this amendment.

(2) Amend and relocate the parenthetical source law citations to conform to the amendments contained in this amendment.

The committee amendment was read and was adopted.

Senator Jones offered the following committee amendment to the bill:

Amend H.B. 1708, House Engrossment, by striking lines 11, 12, and 13 on page 77, and substituting the following:

Sec. 151.323. TELEPHONE AND TELEGRAPH. There are exempted from the taxes imposed by this chapter the receipts from the sale, production, distribution, lease or rental of and the storage, use or other consumption in this State of telephone and telegraph service.

The committee amendment was read and was adopted.

Senator Jones offered the following amendment to the bill:

Amend **H.B. 1708**, House Engrossment, on page 236, by adding “, according to the last federal census next preceding the filing of the report” in the following places:

- (1) On line 7, between “1,000” and the period.
- (2) On line 11, between “2,500” and the semicolon.
- (3) On line 14, between “10,000” and the semicolon.
- (4) On line 17, between “more” and the period.

The amendment was read and was adopted.

On motion of Senator Jones and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### RECORD OF VOTE

Senator Wilson asked to be recorded as voting “Nay” on the passage of the bill to third reading.

#### HOUSE BILL 1708 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1708** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams.

Nays: Wilson.

The bill was read third time and was passed.

#### RECORD OF VOTE

Senator Wilson asked to be recorded as voting “Nay” on the final passage of the bill.

#### HOUSE BILL 1349 ON SECOND READING

On motion of Senator Howard and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1349**, Relating to administration and regulation of water and the creation and operation of water districts.

The bill was read second time.

Senator Howard offered the following committee amendment to the bill:

**H.B. 1349** is amended at Section 1, page 2, line 21 to delete the phrase “less than \$100 nor”.

The committee amendment was read and was adopted.

Senator Howard offered the following committee amendment to the bill:

**H.B. 1349** is amended at Section 1, page 7, line 23 to delete the phrase “less than \$50 nor”.

The committee amendment was read and was adopted.

Senator Howard offered the following committee amendment to the bill:

**H.B. 1349** is amended at Section 1, page 11 by striking lines 7 through 16 identified as Section 54.018 and amending Section 1, page 1, line 7 by deleting “54.018.”

The committee amendment was read and was adopted.

Senator Howard offered the following committee amendment to the bill:

**H.B. 1349** is amended at Section 10, page 21 to delete Section 10 in its entirety and to renumber the following sections consecutively.

The committee amendment was read and was adopted.

Senator Howard offered the following committee amendment to the bill:

**H.B. 1349** is amended at Section 1, page 12, line 14 by adding the phrase “fee simple” before the word landowners and the phrase “as reflected on the county tax rolls,” after the word landowners.

The committee amendment was read and was adopted.

Senator Howard offered the following amendment to the bill:

**H.B. 1349** is amended at Section 1, page 10, line 20 to insert the phrase “and unforeseen” after the word necessary and before the word repairs. After the word discharge on line 22, insert the phrase “and the Commission shall hold a hearing as provided for in subsection (b) of this section. Subsection (f) beginning on line 27, should be redesignated as subsection (e). The word “Subsection” on page 11, line 5 should be substituted for the word “Subsections” and the term “(e)” on page 11, line 5 should be deleted.

The amendment was read and was adopted.

On motion of Senator Howard and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

(Senator Parker in Chair)

**HOUSE BILL 1349 ON THIRD READING**

Senator Howard moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1349** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(President in Chair)

**SENATE CONFEREES ON HOUSE BILL 1400  
GRANTED PERMISSION TO MEET**

On motion of Senator Ogg and by unanimous consent, Senators Ogg, McKnight, Santiesteban, Harris and Mauzy, Senate Conferees on House Bill 1400, were granted permission to meet while the Senate was in session and left the Chamber to deliberate.

**HOUSE BILL 733 ON SECOND READING**

Senator Jones moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 733**, Relating to the crime of and penalties for possession or delivery of drug paraphernalia.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Harris, Mauzy, McKnight, Ogg, Santiesteban.

The bill was read second time and was passed to third reading.

**HOUSE BILL 733 ON THIRD READING**

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 733** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent-excused: Harris, McKnight, Ogg, Santiesteban.

The bill was read third time and was passed.

**COMMITTEE SUBSTITUTE HOUSE BILL 715 ON SECOND READING**

On motion of Senator Mauzy and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:



**C.S.H.B. 715**, Relating to institutions served by higher education authorities and the exercise of the powers of higher education authorities by non-profit corporations.

The bill was read second time and was passed to third reading.

**COMMITTEE SUBSTITUTE HOUSE BILL 715 ON THIRD READING**

Senator Mauzy moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 715** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent-excused: Harris, McKnight, Ogg, Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0.

Absent-excused: Harris, McKnight, Ogg, Santiesteban.

**HOUSE BILL 1090 ON SECOND READING**

On motion of Senator Traeger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1090**, Relating to the collection of state and local hotel occupancy taxes.

The bill was read second time and was passed to third reading.

**RECORD OF VOTES**

Senators Howard and Glasgow asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**MOTION TO PLACE HOUSE BILL 1090 ON THIRD READING**

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1090** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 16, Nays 6. (Not receiving four-fifths vote of Members present)

Yeas: Andujar, Blake, Brooks, Caperton, Doggett, Kothmann, Leedom, Meier, Short, Snelson, Traeger, Truan, Uribe, Vale, Williams, Wilson.

Nays: Brown, Farabee, Glasgow, Howard, Richards, Sarpalius.

Absent-excused: Harris, McKnight, Ogg, Mauzy, Santiesteban.

Absent: Jones, Mengden, Parker, Travis.

## MESSAGE FROM THE HOUSE

House Chamber  
May 29, 1981

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**S.B. 1166**, Relating to the Texas National Guard Armory Board. (With amendment)

**S.B. 600**, Relating to the regulation of utilities. (With amendments)

**S.C.R. 131**, Recalling **H.B. 1559** from the House for further consideration.

**H.B. 211**, Relating to special license plates for volunteer firefighters.

**H.B. 235**, Relating to fees charged at certain airports.

**H.B. 372**, Relating to the requiring of Mental Health and Mental Retardation employees to submit to fingerprinting.

**H.B. 836**, Relating to increasing the State Conservation Fund.

**H.B. 1187**, Relating to the accrual of service credit toward judicial retirement by former district judges who are assigned to sit in a district court.

**H.B. 2056**, Relating to jurisdiction of the municipal courts.

**H.B. 2057**, Relating to the taking of marl, sand, gravel, shell, and mudshell for certain navigation purposes.

**H.B. 2146**, Relating to the repeal of the bonding requirement for notaries public.

**H.B. 2173**, Relating to alternate forms of testing for handicapped adults.

**H.B. 2189**, Relating to persons required to register with the Board of Tax Assessor Examiners.

**H.B. 2290**, Relating to contracts between the State Highway and Public Transportation Commission and the Texas Board of Corrections for the provision of inmate labor for state highway system improvement projects.

**H.B. 2336**, Relating to the duties and compensation of the county attorney of Callahan County and the criminal district attorney of the 42nd and 104th Judicial Districts and to the election of the criminal district attorney.

**H.B. 2376**, Relating to the degree of proof that must be presented for appointment of a receiver of mineral interests owned by nonresidents and absentees.

**H.B. 727**, Relating to the prosecution of a person fifteen years of age or older for certain offenses without a waiver of jurisdiction and certification of the individual by the juvenile court for criminal prosecution.

**H.B. 623**, Relating to supplemental appropriations to pay the additional cost of purchased utilities at certain institutions of higher education.

**H.B. 754**, Relating to the enforcement of certain court orders issued in or after a suit for the dissolution of a marriage.

**H.J.R. 61**, Proposing a constitutional amendment to permit use of public funds and credit for payment of premiums of certain insurance companies authorized to do business in Texas.

**H.J.R. 72**, Proposing a constitutional amendment relating to the rate of interest for contracts if the parties to the contract did not agree on a rate of interest.

**H.J.R. 84**, Proposing a constitutional amendment to the division of counties into precincts for the election of justices of the peace, constables, and county commissioners.

**H.J.R. 121**, Proposing a constitutional amendment authorizing laws exempting implements of husbandry from ad valorem taxation.

**H.B. 1173**, Relating to temporary speed limits.

**S.B. 253**, Tabled by the House by Record Vote 67 yeas, 49 nays, 1 present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

**S.B. 132**  
**S.B. 232**  
**S.B. 441**  
**S.B. 604**  
**S.B. 913**  
**S.B. 955**  
**S.B. 1021**  
**S.B. 1055**  
**H.C.R. 156**  
**H.C.R. 168**  
**H.C.R. 172**  
**H.C.R. 173**  
**H.B. 278**  
**H.B. 675**  
**H.B. 804**  
**H.B. 910**  
**H.B. 1003**

H.B. 1106  
H.B. 1189  
H.B. 1210  
H.B. 1278  
H.B. 1351  
H.B. 1433  
H.B. 1434  
H.B. 1719

(President Pro Tempore Traeger in Chair)

**COMMITTEE SUBSTITUTE HOUSE BILL 1379 ON SECOND READING**

On motion of Senator Snelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 1379**, Relating to the regulation of injection wells and underground storage of hydrocarbons; providing penalties.

The bill was read second time and was passed to third reading.

**COMMITTEE SUBSTITUTE HOUSE BILL 1379 ON THIRD READING**

Senator Snelson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 1379** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Harris, Mauzy, McKnight, Ogg, Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 0.

Absent-excused: Harris, Mauzy, McKnight, Santiesteban.

Absent: Parker.

**HOUSE BILL 1576 ON SECOND READING**

On motion of Senator Blake and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1576**, Relating to the annual occupation tax on coin-operated machines that show motion pictures.

The bill was read second time and was passed to third reading.

**HOUSE BILL 1576 ON THIRD READING**

Senator Blake moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1576** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Harris, Mauzy, McKnight, Ogg, Santiesteban.

Absent: Parker.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 0.

Absent-excused: Harris, Mauzy, McKnight, Santiesteban.

Absent: Parker.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1705 ON SECOND READING**

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 1705**, Relating to the reinstatement or extension of the term of restrictive covenants applicable to certain residential real estate subdivisions.

The bill was read second time and was passed to third reading.

#### **RECORD OF VOTES**

Senators Meier and Williams asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1705 ON THIRD READING**

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 1705** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 3.

Yeas: Andujar, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Howard, Jones, Kothmann, Leedom, Mengden, Parker, Richards, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Wilson.

Nays: Blake, Meier, Williams.

Absent: Harris, Mauzy, McKnight, Ogg, Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 3.

Yeas: Andujar, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Wilson.

Nays: Blake, Meier, Williams.

Absent-excused: Mauzy, McKnight.

#### HOUSE BILL 1499 ON SECOND READING

Senator Mengden asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**H.B. 1499**, Relating to state response to an energy emergency.

There was objection.

Senator Mengden then moved to suspend the regular order of business and take up **H.B. 1499** for consideration at this time.

The motion prevailed by the following vote: Yeas 20, Nays 6.

Yeas: Andujar, Blake, Brown, Caperton, Doggett, Farabee, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Richards, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams.

Nays: Glasgow, Mauzy, Parker, Sarpalius, Short, Wilson.

Absent-excused: McKnight, Ogg, Santiesteban, Harris.

Absent: Brooks.

The bill was read second time and was passed to third reading.

#### RECORD OF VOTE

Senator Wilson asked to be recorded as voting "Nay" on the passage of the bill to third reading.

(President in Chair)

#### SENATE CONFEREES ON HOUSE BILL 1400 RETURN TO SENATE CHAMBER

The Senate Conferees on **H.B. 1400**, Senators Ogg, McKnight, Santiesteban, Harris and Mauzy, returned to the Chamber from their deliberations.

#### HOUSE BILL 1499 ON THIRD READING

Senator Mengden moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1499** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 20, Nays 4.

Yeas: Andujar, Blake, Brooks, Caperton, Doggett, Farabee, Howard, Kothmann, Leedom, Meier, Mengden, Parker, Richards, Santiesteban, Sarpalius, Traeger, Truan, Uribe, Vale, Williams.

Nays: Glasgow, Mauzy, Short, Wilson.

Absent: Brown, Harris, Jones, McKnight, Ogg, Snelson, Travis.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 4.

Yeas: Andujar, Blake, Brooks, Caperton, Doggett, Farabee, Harris, Howard, Kothmann, Leedom, Meier, Mengden, Parker, Richards, Santiesteban, Sarpalius, Traeger, Truan, Uribe, Vale, Williams.

Nays: Glasgow, Mauzy, Short, Wilson.

Absent: Brown, Jones, McKnight, Ogg, Snelson, Travis.

#### **HOUSE BILL 518 ON SECOND READING**

On motion of Senator Uribe and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 518**, Relating to the administration of social service programs authorized by federal law.

The bill was read second time and was passed to third reading.

#### **HOUSE BILL 518 ON THIRD READING**

Senator Uribe moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 518** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent: Andujar, Howard, McKnight, Ogg.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0.

Absent: Andujar, Howard, McKnight, Ogg.

#### **SENATE CONCURRENT RESOLUTION 135**

Senator Farabee offered the following resolution:

WHEREAS, Senate Bill Number 1020 has been passed by both the Senate and the House and is now in the office of the Governor, and there are certain corrections to be made therein; now, therefore, be it

RESOLVED, By the Senate of the State of Texas, the House of Representatives concurring, That the Governor be and is hereby respectfully requested to return Senate Bill Number 1020 to the Senate for correction; and, be it further

RESOLVED, That the action of the President of the Senate and the Speaker of the House in signing Senate Bill 1020 be declared null and void, and that the two presiding officers be authorized to remove their signatures from the Enrolled Bill; and, be it further

RESOLVED, That the Engrossing and Enrolling Clerk of the Senate be and is hereby directed to correct the enrolled copy of Senate Bill Number 1020 in the following manner:

By submitting it to the Comptroller of Public Accounts for certification.

The resolution was read.

On motion of Senator Farabee and by unanimous consent, all necessary rules were suspended and the resolution was considered immediately and was adopted.

#### **HOUSE BILL 640 ON SECOND READING**

On motion of Senator Meier and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 640**, Relating to abandoned lots, for which perpetual care has not been provided, in private cemeteries operated by nonprofit organizations.

The bill was read second time and was passed to third reading.

#### **HOUSE BILL 640 ON THIRD READING**

Senator Meier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 640** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Howard, Ogg.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent: Howard, Ogg.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 2090 ON SECOND READING**

Senator McKnight asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**C.S.H.B. 2090**, Relating to public utility transactions with industrial, pipeline, and similar large volume customers.

There was objection.

Senator McKnight then moved to suspend the regular order of business and take up **C.S.H.B. 2090** for consideration at this time.

The motion prevailed by the following vote: Yeas 26, Nays 2.

Yeas: Andujar, Blake, Brooks, Caperton, Farabee, Glasgow, Harris, Howard, Kothmann, Leedom, McKnight, Meier, Mengden, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Doggett, Mauzy.



Absent: Brown, Jones, Ogg.

The bill was read second time and was passed to third reading.

#### RECORD OF VOTES

Senators Mauzy, Wilson and Doggett asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### COMMITTEE SUBSTITUTE HOUSE BILL 2090 ON THIRD READING

Senator McKnight moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 2090 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Andujar, Blake, Brooks, Caperton, Farabee, Glasgow, Harris, Howard, Kothmann, Leedom, McKnight, Meier, Mengden, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams.

Nays: Doggett, Mauzy, Wilson.

Absent: Brown, Jones, Ogg.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 3. (Same as previous roll call)

#### HOUSE BILL 2375 ON SECOND READING

On motion of Senator Wilson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2375**, Relating to hunting on and around the Stillhouse Hollow Reservoir in Bell County.

The bill was read second time.

Senator Wilson offered the following amendment to the bill:

Amend **H.B. 2375** by striking Section 1 in its entirety and substituting the following:

Section 1. Subchapter B, Chapter 114, Parks and Wildlife Code, as amended, is amended to read as follows:

##### **SUBCHAPTER B. STILLHOUSE HOLLOW RESERVOIR [FISH]**

**Sec. 114.011. HUNTING PROHIBITED.** (a) Except as provided by Subsection (b) of this section, no person on the water of Stillhouse Hollow Reservoir in Bell County or on land that is owned by the federal government and that is adjacent to Stillhouse Hollow Reservoir may hunt any wild bird or animal.

(b) A person may hunt birds on the water of Stillhouse Hollow Reservoir in Bell County or on land that is owned by the federal government and that is adjacent to Stillhouse Hollow Reservoir during the open season only if:

- (1) the person is at least 600 feet from the nearest private property line when the person shoots the gun; and  
(2) the person uses a shotgun.  
(c) A person who violates this section is guilty of a Class C misdemeanor.

The amendment was read and was adopted.

On motion of Senator Wilson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### HOUSE BILL 2375 ON THIRD READING

Senator Wilson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 2375 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogg.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent: Ogg.

#### HOUSE BILL 2014 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2014, Relating to premium taxes on certain insurance companies.

The bill was read second time and was passed to third reading.

#### HOUSE BILL 2014 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 2014 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Brown, Caperton, Ogg.

The bill was read third time and was passed.

#### HOUSE BILL 42 REREFERRED

On motion of Senator Caperton and by unanimous consent, H.B. 42 was withdrawn from the Committee on Jurisprudence and rereferred to the Committee on Human Resources.

**SENATE BILL 727 WITH HOUSE AMENDMENTS**

Senator Santiesteban called **S.B. 727** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Hernandez

Amend **S.B. 727** by striking \$10,000 and substituting \$5,000 on page 12 line 3.

Committee Amendment No. 2 - Hernandez

Amend **S.B. 727** by striking \$20,000 and substituting \$10,000 on page 12, line 10.

Committee Amendment No. 3 - Hernandez

Amend **S.B. 727** by inserting the words "two times" following the word "reaches" on page 13, line 5.

Committee Amendment No. 4 - Hernandez

Amend **S.B. 727** by striking the words "within 30 days" on page 26, line 18; by striking the word "immediately" on page 26, line 23; by striking the words "by preparing a judgment nisi and citation" on page 26, lines 24 and 25; by striking the word "shall" and substituting the word "may" on page 27, line 5; and by striking the words "as soon as practicable" on page 27, lines 5 and 6.

Floor Amendment No. 1 - Maloney

Amend **S.B. 727**, Page 4, line 10, by adding the following sentence:

"Notwithstanding any other provision of this subsection, no person licensed to practice law shall be relieved of liability on a bail bond he has executed for the sole reason that he has not been employed to represent the principal on the merits of the case if he has been paid a fee for the execution of the bail bond."

Floor Amendment No. 2 - Maloney

Amend **S.B. 727**, Page 22, line 9, by striking subsection (e) in its entirety.

Floor Amendment No. 3 - Maloney

Amend **S.B. 727**, Page 4, line 22, by adding a new subsection (4) to read as follows:

"(4) the amount and type of security held by the bondsman, together with a statement as to whether the security was taken for payment of a bail bond fee or for assurance of the principal's appearance in court and the conditions under which the security will be returned. No security shall be held for both the payment of a bail bond fee and assurance of the principal's appearance in court that is in excess of the particular risk involved."

## Floor Amendment No. 4 - Maloney

Amend S.B. 727, Page 21, line 11, by striking the words "unless he forthwith executes" and substituting therefore, the following:

"without the written permission of the judge having jurisdiction of the case after the person who executed the bail bond has executed"

## Floor Amendment No. 5 - J. Gibson

Amend S.B. 727 on page 23 by adding a new Section 14(a) after Section 14 to read as follows:

Section 14(a). Notwithstanding any provision of law to the contrary, any corporation, surety company, or other business entity who has signed or participated in the execution as surety on bail bonds and is in default on five or more bail bonds in a county shall thereafter be disqualified to act as a surety in the county in which the bonds are forfeited so long as it is in default on at least five of said bonds. It shall be the duty of the clerk of the court wherein such surety is in default on a bail bond, to notify in writing the sheriff, chief of police, or other peace officer in the county in which the bond is forfeited of such default. A surety shall be deemed in default from the time the trial court enters its final judgment on the scire facias until such judgment is satisfied or set aside. For purposes of this section, a business entity shall be deemed to not be in default on a bond if it deposits with the court in the county where the bond has been forfeited, cash in the full amount of the judgment, pending appeal, such deposit to be applied for the payment of any final judgment in such case.

## Floor Amendment No. 6 - Gibson

Amend S.B. 727, on page 23, after line 13, by inserting Section 14A to read as follows:

"Section 14A. EFFECT OF DEFAULT BY CORPORATION. (a) Notwithstanding any law to the contrary, a corporation that is in default on five or more bail bonds in a county may not act as a bail bondsman in that county.

(b) The clerk of the court in which the corporation is in default on a bail bond shall deliver a written notice of the default to the sheriff, chief of police, or other appropriate peace officer in the county in which the bond is forfeited.

(c) A corporation is considered in default on a bail bond from the time the trial court enters its final judgment on the scire facias until the judgment is satisfied or set aside.

(d) For purposes of this section, a corporation is not considered in default on a bond if it deposits with the appropriate court cash in the full amount of the judgment, pending appeal. The deposit shall be applied to the payment of any final judgment in the case."

The amendments were read.

Senator Santiesteban moved to concur in the House amendments.

The motion prevailed.

**SENATE RULE 103 SUSPENDED**

On motion of Senator Brooks and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Human Resources might consider today the following bill and resolution:

**H.B. 42**  
**S.R. 775**

**SENATE RULE 103 SUSPENDED**

On motion of Senator Jones and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Economic Development might consider **H.B. 245**.

**SENATE RULE 103 SUSPENDED**

On motion of Senator Jones and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Finance might consider today the following bills:

**H.B. 504**  
**H.B. 623**  
**H.B. 1771**

(Senator Meier in Chair)

**SENATE RULE 103 SUSPENDED**

On motion of Senator Snelson and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Education might consider **H.B. 338** today.

**BILL SIGNED**

The Presiding Officer (Senator Meier in Chair) announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill:

**H.B. 1957**

(President in Chair)

**SENATE RULE 103 SUSPENDED**

Senator Jones moved that Senate Rule 103 be suspended in order that the Committee on Finance might consider **H.B. 1569** today.

The motion prevailed by the following vote: Yeas 20, Nays 8.

Yeas: Andujar, Brooks, Brown, Caperton, Farabee, Harris, Howard, Jones, Leedom, Meier, Mengden, Ogg, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Wilson.

Nays: Blake, Doggett, Kothmann, Mauzy, McKnight, Truan, Vale, Williams.

Absent: Glasgow, Parker, Uribe.

#### SENATE RULE 103 SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider today the following bills:

**H.B. 2189**

**H.B. 1173**

#### BILLS AND RESOLUTION SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolution:

<b>H.C.R. 146</b>	<b>H.B. 1335</b>
<b>H.B. 200</b>	<b>H.B. 1369</b>
<b>H.B. 269</b>	<b>H.B. 1480</b>
<b>H.B. 396</b>	<b>H.B. 1540</b>
<b>H.B. 454</b>	<b>H.B. 1606</b>
<b>H.B. 622</b>	<b>H.B. 1797</b>
<b>H.B. 683</b>	<b>H.B. 1853</b>
<b>H.B. 716</b>	<b>H.B. 2293</b>
<b>H.B. 791</b>	<b>H.B. 2306</b>
<b>H.B. 888</b>	<b>H.B. 2317</b>
<b>H.B. 919</b>	<b>H.B. 2329</b>
<b>H.B. 1101</b>	<b>H.B. 2363</b>
<b>H.B. 1297</b>	<b>H.B. 2371</b>
<b>H.B. 1301</b>	<b>H.B. 2372</b>

#### RECESS

On motion of Senator Mauzy the Senate at 12:14 o'clock p.m. took recess until 2:00 o'clock p.m. today.

#### AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

#### HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read the first time and referred to the Committee indicated:

**H.B. 2376**, To Committee on State Affairs.  
**H.B. 211**, To Committee on Intergovernmental Relations.  
**H.B. 235**, To Committee on Intergovernmental Relations.  
**H.B. 372**, To Committee on Human Resources.  
**H.B. 836**, To Committee on Economic Development.  
**H.B. 1187**, To Committee on State Affairs.  
**H.B. 2056**, To Committee on Jurisprudence.

H.B. 2057, To Committee on Natural Resources.  
H.B. 2146, To Committee on Jurisprudence.  
H.B. 2189, To Committee on State Affairs.  
H.B. 2290, To Committee on State Affairs.  
H.B. 2336, To Committee on Intergovernmental Relations.  
H.B. 2173, To Committee on State Affairs.  
H.B. 727, To Committee on Jurisprudence.  
H.B. 623, To Committee on Finance.  
H.B. 754, To Committee on Jurisprudence.  
H.B. 1173, To Committee on State Affairs.  
H.J.R. 72, To Committee on Economic Development.  
H.J.R. 61, To Committee on Economic Development.  
H.J.R. 84, To Committee on State Affairs.  
H.J.R. 121, To Committee on Finance.

#### REPORTS OF STANDING COMMITTEES

By unanimous consent, Senator Brooks submitted the following report for the Committee on Human Resources:

H.B. 42  
S.R. 775  
S.R. 765

By unanimous consent, Senator Brown, Acting Chairman, submitted the following report for the Committee on Human Resources:

S.R. 764

By unanimous consent, Senator Brooks submitted the following report for the Committee on Human Resources:

H.B. 2256 (Amended)

By unanimous consent, Senator Brown, Acting Chairman, submitted the following report for the Committee on Human Resources:

S.R. 773

By unanimous consent, Senator Farabee submitted the following report for the Committee on State Affairs:

H.B. 1616  
H.B. 1567  
S.R. 774  
H.B. 2119  
H.B. 2109  
H.B. 1681  
H.B. 659  
H.B. 1905 (Amended)  
H.B. 2289 (Amended)  
H.B. 308  
H.B. 137  
H.B. 118  
C.S.H.B. 1986 (Read first time)  
C.S.H.B. 2081 (Read first time)

## SENATE RESOLUTION ON FIRST READING

On motion of Senator Traeger and by unanimous consent, the following resolution was introduced, read first time and referred to the Committee indicated:

<b>S.R. 791 by Traeger</b>	<b>Intergovernmental Relations</b>
Establishing an interim study committee to study investor-owned water and sewer utility companies.	

## MESSAGE FROM THE HOUSE

House Chamber  
May 29, 1981

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House has discharged the conference committee on H.B. 872 and has concurred in Senate amendments to H.B. 872 by a non-record vote.

**S.C.R. 29**, Encouraging Real Estate Commission to continue support of local listings of barrier-free homes.

**S.C.R. 100, Creating a joint interim committee to study needs of autistic children.**

**S.C.R. 113, Granting Buckner Construction Company permission to sue the state.**

**S.C.R. 114**, Granting Buckner Construction Co. permission to sue the state.

**H.C.R. 194, Commending Laddie Novotny.**

**H.C.R. 195, Commending former State Representative W. E. (Bill) Finck.**

**H.C.R. 196, Commending former State Representative Ronald C. Bird.**

**H.C.R. 197**, Commending former State Representative Albert D. Brown, Jr.

**H.C.R. 203**, Proclaiming June 1, 1981, Barry White and Paul Quinn College Day in Texas.

**H.C.R. 206**, Permission for R. G. Russ, Jr. and Helen Russ to sue the state.

**H.C.R. 207, Memorializing Congress to provide tax deduction for adoption fees and costs.**

H.C.R. 208, Requesting Department of Human Resources to study feasibility of respite care for families under stress.



**H.C.R. 209**, Directing the Department of Human Resources to monitor closely hard-to-place children in its care.

**H.C.R. 210**, Directing Department of Human Resources to continue full assistance to private adoption agencies.

**H.C.R. 211**, Congratulating the Lamar University baseball team.

**H.B. 161**, Relating to bail and incarceration of a witness to secure an appearance by the witness in a criminal case.

**H.B. 1739**, Relating to the factors that may be considered in determining the best interest of a child in a suit affecting the parent-child relationship.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### **COMMITTEE SUBSTITUTE HOUSE BILL 199 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 199**, Relating to the authorization of the manufacture, distribution, sale, prescription, and use of dimethyl sulfoxide (DMSO) and approved drugs; providing penalties.

The bill was read second time and was passed to third reading.

#### **RECORD OF VOTE**

Senator Howard asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 199 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 199** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Santiesteban, Sarpalius, Short, Snelson, Traeger, Truan, Uribe, Vale, Williams, Wilson.

Nays: Howard.

Absent: Harris, Richards, Travis.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 1. (Same as previous roll call)

**SENATE BILL 658 WITH HOUSE AMENDMENT**

By unanimous consent, Senator Parker called **S.B. 658** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 - Von Dohlen

Amend **S.B. 658** by adding a new Subsection "(e)" to read as follows, and renumbering the succeeding subsections accordingly:

"(e) Upon request from a pharmacist, the practitioner shall furnish a copy of such written designation of an agent authorized to communicate prescriptions on behalf of such practitioner. Nothing herein shall be construed as to relieve such a practitioner or his designated agent from the requirements of Section 40 of Article 4542(a) (The Texas Pharmacy Law); and such practitioner shall be personally responsible for the actions for such designated agent in communicating prescriptions to a pharmacist."

The amendment was read.

Senator Parker moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Harris, Richards, Travis.

**SENATE RULE 103 SUSPENDED**

On motion of Senator Traeger and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Intergovernmental Relations might consider today the following bills and resolution:

**H.B. 1646**

**H.B. 2385**

**S.R. 791**

**COMMITTEE SUBSTITUTE SENATE BILL 1259 ON THIRD READING**

Senator Brown raised the Point of Order that the time had arrived for consideration of **C.S.S.B. 1259**. (The bill was read third time yesterday and further consideration was postponed until 2:30 o'clock today.)

The President sustained the Point of Order and laid out the following on its third reading and final passage:

**C.S.S.B. 1259**, Relating to creation, administration, powers, duties, operations, and financing of the Clear Creek Watershed Drainage District of Galveston County; providing a penalty.

Question - Shall the bill be finally passed?

The bill was finally passed by the following vote: Yeas 25, Nays 5.

Yeas: Andujar, Blake, Brooks, Brown, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, McKnight, Meier, Mengden, Parker, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Wilson.

Nays: Mauzy, Ogg, Richards, Santiesteban, Williams.

Absent: Caperton.

#### **HOUSE BILL 1559 ON THIRD READING**

The President laid before the Senate on its third reading and final passage: (Final passage of the bill was reconsidered and recalled from the House of Representatives on May 28, 1981.)

**H.B. 1559**, Relating to payment of social security contributions for state employees.

Question - Shall **H.B. 1559** be finally passed?

On motion of Senator Doggett and by unanimous consent, the bill was again finally passed by voice vote.

#### **HOUSE BILL 487 ON THIRD READING**

Senator Truan moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

**H.B. 487**, Relating to agricultural laborers' use of hoes that have short handles.

The motion prevailed by the following vote: Yeas 22, Nays 7.

Yeas: Andujar, Blake, Brooks, Caperton, Doggett, Glasgow, Harris, Howard, Kothmann, Leedom, Mauzy, McKnight, Ogg, Parker, Santiesteban, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Farabee, Jones, Meier, Mengden, Sarpalius, Short, Snelson.

Absent: Brown, Richards.

The bill was read third time and was finally passed.

#### **HOUSE BILL 1154 ON SECOND READING**

On motion of Senator Santiesteban and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1154**, Relating to a program to demonstrate solar electric repowering.

The bill was read second time and was passed to third reading.

#### **HOUSE BILL 1154 ON THIRD READING**

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1154** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Andujar, Blake, Brooks, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Jones.

Absent: Brown.

The bill was read third time and was passed.

#### RECORD OF VOTE

Senator Jones asked to be recorded as voting "Nay" on the final passage of the bill.

#### REPORT OF THE COMMITTEE TO DESIGNATE THE STATE ARTIST

May 29, 1981  
Austin, Texas

The Honorable William P. Hobby  
President of the Senate

The Honorable Bill Clayton  
Speaker of the House of Representatives

Sir:

Pursuant to H.C.R. 15 passed by the 67th Legislature, Regular Session, the committee met and agreed upon the following:

To be Texas State Artist from May 1, 1981, and ending April 30, 1982, Jerry Newman;

To be Texas State Artist from May 1, 1982, and ending April 30, 1983, Dr. James Harvey Johnson;

To be alternate State Artist from May 1, 1981, and ending April, 1982, Raul Gutierrez;

To be alternate State Artist from May 1, 1982, and ending April, 1983, Armando Hinojosa.

Senator Carl A. Parker  
Senator John Wilson  
Senator Bob Vale

Representative Billy Hall  
Representative Stan Schlueter  
Representative Bo Crawford

Bob Close  
James Kaster  
Hilary Doran

The report was read and was filed with the Secretary of the Senate.

**HOUSE BILL 296 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 296**, Relating to salary step credit for vocational teachers' work experience.

The bill was read second time.

Senator Brooks offered the following committee amendment to the bill:

Amend House Bill 296 by striking SECTION 2 and renumbering the subsequent section accordingly.

The committee amendment was read and was adopted.

Senator Brooks offered the following amendment to the bill:

Amend the committee report for House Bill 296 by renumbering SECTION 2 as SECTION 3 and adding a new SECTION 2 to read as follows:

**SECTION 2:** This Act takes effect September 1, 1982.

The amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

**HOUSE BILL 296 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 296** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE HOUSE BILL 2198 ON SECOND READING**

Senator Parker moved to suspend the regular order of business to take up for consideration at this time:

**C.S.H.B. 2198**, Relating to authorization and regulation of credit insurance transactions, and the time for issuance of and amount of refunds on certain policies of credit insurance.

On motion of Senator Parker and by unanimous consent, the motion to suspend the regular order of business was withdrawn.

**HOUSE BILL 1891 ON SECOND READING**

On motion of Senator McKnight and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1891**, Relating to changing of retirement options by certain elective officials retired from the Employees Retirement System of Texas.

The bill was read second time.

Senator Snelson offered the following amendment to the bill:

Amend **H.B. 1891** by striking all below the enacting clause and substituting the following:

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Subsection B, Section 5, Chapter 352, Acts of the 50th Legislature, 1947, as amended (Article 6228a, Vernon's Texas Civil Statutes), is amended by adding Subdivision 6 to read as follows:

6. Any person who retired from the elective class of service prior to February 1, 1981, and who selected a person other than his spouse or minor child as beneficiary under retirement Options 1, 2, or 5 may change the retirement option selected to a standard retirement annuity under the following circumstances:

1. A written acknowledged application for the change must be filed with the Employees Retirement System by the retiree before November 1, 1981.

2. The designated beneficiary must file a written, acknowledged consent to the change with the Employees Retirement System before November 1, 1981.

3. The application must be filed within one (1) year of the date of retirement.

**SECTION 2.** Section 5-1, Chapter 352, Acts of the 50th Legislature, 1947, as amended (Article 6228a, Vernon's Texas Civil Statutes), is amended to read as follows:

**Sec. 5-1. BENEFIT INCREASES: CONTINUANCE OF ANNUITIES AND DEATH BENEFIT PLANS.** Notwithstanding any other provisions of Chapter 352, Acts of the 50th Legislature, 1947, as amended (Article 6228a, Vernon's Texas Civil Statutes), the provisions of this section shall apply to annuities payable to retired employees or appointed officers or their survivors on and after September 1, 1977. Nothing in this section shall be construed to reduce any preexisting annuity. Service retirement standard annuities payable for appointive officers and employees by virtue of retirements or deaths occurring on and after August 31, 1977, shall be computed on the basis of the average monthly compensation of the member for the thirty-six (36) highest months of compensation during the last sixty (60) months of creditable service times one and one-half per cent (1-1/2%) of such average for each of the first ten (10) years of creditable service plus two per cent (2%) of such average for each subsequent year of creditable service, but the service retirement standard annuity may not be less than Seventy-five Dollars (\$75.00) per month and may not exceed eighty per cent (80%) of the average compensation so calculated. Annuities first payable by virtue of retirements or deaths occurring on or after September 1, 1976, and prior to August 31, 1977, shall be recomputed as provided in the preceding sentence, and the revised annuity shall be payable for and after the month of September, 1977. Service retirement standard annuities

for elective state officials payable by virtue of retirement or death of any person retired or who retires as an elective state official or who at the time of death was eligible to select a death benefit annuity as an elective state official shall on and after September 1, 1975, be calculated upon the basis of two per cent (2%) of the State salary paid to district judges on that date or as adjusted thereafter times years of creditable service as an elective state official, but no service retirement standard annuity so calculated may exceed sixty per cent (60%) of such judicial salary. An annuity based in whole or in part on the service of a person who had service credit in the System as a member of the Legislature and as an elected member of the executive department of the State, as described in Article IV, Sections 1 and 2, of the Texas Constitution which credit had been claimed as appointive officer or employee service credit at the time before September 1, 1975, that the person retired or died shall, if the person who currently receives the annuity files a written request with the System, be computed, beginning with the payment for the month after the month in which the request is filed, as if all of the person's service credit had been claimed as elective state official service credit. A disability retirement annuity for appointive officers and employees retiring on disability on and after February 25, 1975, shall be calculated on the basis of one and seven-tenths per cent (1.7%) per year of creditable service, but in no event will the disability retirement annuity be greater than seventy per cent (70%) of compensation as calculated under Section 5 of this Act, nor less than the greater of (a) thirty-five per cent (35%) of such compensation or (b) One Hundred Ten Dollars (\$110.00) per month. Any death benefit annuity plan selected by a member shall remain in effect during such time as such person may be receiving disability retirement benefits; and upon death of the person receiving such benefits, the designated beneficiary shall receive monthly annuities in accordance with the plan selected. Notwithstanding any other provisions of this Act, the State of Texas shall pay from the State Accumulation Fund an additional lump sum death benefit in the amount of Five Thousand Dollars (\$5,000) upon satisfactory proof of the death occurring on or after September 1, 1975, of any officer or employee retired as an annuitant under the provisions of the Retirement Acts administered by the Board of Trustees of the Employees Retirement System. Such benefit shall be paid to such persons as may be designated by the retired member in a signed and witnessed writing. If the retired member makes no such written designation, the benefit shall be paid to the executor or administrator of his estate, or, if there is no executor or administrator of the estate, then payment shall be under the laws of descent and distribution. Upon certification by the Employees Retirement System, the Comptroller of Public Accounts shall transfer each month from the General Revenue Fund to the State Accumulation Fund the estimated amount required for the payment of such death benefits. The Board of Trustees shall certify to the Comptroller of Public Accounts and to the State Treasurer at the close of each fiscal year the amount required for that year. With respect to retirements on and after September 1, 1975, the calculation of reduced annuities provided in Subsection B of Section 5 of this Act shall be made without regard to the sex of annuitant or nominee involved.

SECTION 3. Any annuity increase resulting from a change of retirement option under Section 1 of this Act shall be effective on the first day of the month following the date all necessary documents are received by the Employees Retirement System of Texas.

SECTION 4. Section 1 of this Act takes effect September 1, 1981.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public

necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by the following vote: Yeas 22, Nays 9.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Glasgow, Harris, Kothmann, McKnight, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Williams, Wilson.

Nays: Andujar, Farabee, Howard, Jones, Leedom, Mauzy, Meier, Mengden, Vale.

On motion of Senator McKnight and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### HOUSE BILL 1891 ON THIRD READING

Senator McKnight moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1891** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Kothmann, Mauzy, McKnight, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Andujar, Howard, Jones, Leedom, Meier, Mengden.

The bill was read third time and was passed.

#### RECORD OF VOTE

Senator Meier asked to be recorded as voting "Nay" on the final passage of the bill.

#### MESSAGE FROM THE HOUSE

House Chamber  
May 29, 1981

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**S.C.R. 135**, Requesting to return **S.B. 1020** to the Senate for correction.

**H.C.R. 216**, Creating a committee to designate a Poet Laureate of the State of Texas.



**H.C.R. 175**, Commending Jack Valenti.

The House refused to concur in Senate amendments to **H.J.R. 111** and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House Conferees: McFarland, Delco, Rains, Presnal, Gavin.

**H.B. 1479**, Relating to branch pilots boarding foreign-flag vessels.

**H.B. 1673**, Relating to the encouragement, support and development of small and minority business enterprise throughout the state.

**H.B. 2339**, Relating to the election of directors of the Montgomery County Hospital District, to notice of meetings of directors, and to the sale or lease of certain district land.

**H.B. 2387**, Relating to a change in the use by the City of Austin of certain real property currently designated for Hospital use.

**S.B. 1276**, Relating to conforming the Agriculture Code to laws enacted by the 67th Legislature. (With amendments)

**S.B. 904**, Relating to providing a deadline for filing death certificates.

**S.B. 1141**, Relating to the authority of the commissioners courts of certain counties to contract for the destruction of bonds, interest coupons, or other evidences of indebtedness issued and paid by the counties.

**S.B. 1165**, Relating to the fees, costs and deposits to be received by the Clerk of the Supreme Court.

**S.B. 1180**, Relating to the Firemen's Relief and Retirement Fund in certain cities.

**S.B. 894**, Relating to the lease of lands owned by or held for the benefit of certain state agencies. (With amendments)

**S.B. 547**, Relating to the authority of certain employees of the secretary of state to administer oaths.

**S.B. 684**, Relating to the filing of a security instrument by a utility.

**S.B. 812**, Relating to removing certain convalescent and nursing homes and related institutions from certain inspection, open hearing and grading requirements.

**S.B. 819**, Relating to repeal of obsolete provisions of the Texas Election Code.

**S.B. 856**, Relating to commissions for security officers of political subdivisions.

**S.B. 545**, Relating to weapons proficiency of commissioned security officers. (With amendment)

**S.B. 269**, Relating to the authority of juvenile courts to order certain children found to have engaged in delinquent conduct arising from the commission of certain offenses to make full or partial restitution to the victim of the offense.

**S.B. 257**, Relating to the confidentiality of information and reports concerning persons infected with venereal diseases.

**S.B. 85**, Relating to creation of a state office of early childhood development.

**S.B. 34**, Relating to boundaries of justice precincts and to the terms of office of affected justices of the peace and constables.

**S.B. 500**, Relating to the responsibility of a county to provide liability coverage for certain full-time law enforcement personnel. (With amendments)

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### CONFERENCE COMMITTEE ON HOUSE JOINT RESOLUTION 111

Senator Snelson called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H.J.R. 111 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on H.J.R. 111 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Snelson, Chairman; Jones, Caperton, Vale, Parker.

#### CONFERENCE COMMITTEE REPORT HOUSE BILL 1143

Senator Mauzy submitted the following Conference Committee Report:

Austin, Texas  
May 29, 1981

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1143** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MAUZY  
PARKER  
DOGGETT  
VALE  
On the part of the Senate

CAIN  
HUDSON  
NABERS  
MALONEY  
On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### **HOUSE BILL 603 ON SECOND READING**

On motion of Senator Ogg and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 603**, Relating to a summer school pilot program for students who fail to meet certain achievement levels. (Submitted by Governor as an emergency)

The bill was read second time.

Senator Ogg offered the following committee amendment to the bill:

Amend **H.B. 603** by adding Sec. 16.521(d) on page 2 to read as follows:

“(d) No district may establish such a summer school pilot program in a manner which would supplant the offering of similar remedial programs during the regular school term, nor may any district offering such a summer school pilot program require a student to participate in the program.”

The committee amendment was read and was adopted.

Senator Ogg offered the following committee amendment to the bill:

Amend **H.B. 603**, Section 1, line 12, after the word “program” by striking the words “before allocating other district revenue for that purpose.”

The committee amendment was read and was adopted.

Senator Ogg offered the following amendment to the bill:

Amend **H.B. 603** by renumbering Section 2 as Section 3 and adding a new section to read as follows:

“SECTION 2. The sum of \$2 million is appropriated from the general revenue fund to the Central Education Agency for the biennium ending August

31, 1983, for the purpose of developing a state plan for the establishment and operation of summer school pilot programs."

The amendment was read and was adopted.

Senator Mengden offered the following amendment to the bill:

Amend H.B. 603 by inserting the following new Section 2 and renumbering accordingly:

SECTION 2. Chapter 21, Texas Education Code, as amended, is amended by adding Subchapter N to read as follows:

**"SUBCHAPTER N. COMPETENCY-BASED PROMOTION REQUIREMENTS**

"Sec. 21.501. STATE POLICY. It is the policy of this state that students be required to achieve in accordance with their ability before being promoted to a higher grade level or awarded a high school diploma. A student may not be promoted to the next grade level or awarded a high school diploma unless the student has demonstrated a minimum level of achievement for his or her grade level. Promotion of a student shall be based upon the work performed by the student throughout the entire school year. The recommendation of the teacher shall be taken into consideration in determining whether a student is to be promoted.

"Sec. 21.502. EXCEPTIONAL STUDENTS. A school district shall exempt from the requirements of this subchapter a student who has a mental impairment or learning disability that prevents him or her from developing the minimum competencies required for promotion or graduation. Policies relative to levels of achievement shall take into account the limited English proficiency of a student."

The amendment was read.

(Senator Brown in Chair)

On motion of Senator Ogg, the amendment was tabled by the following vote: Yeas 21, Nays 10.

Yeas: Andujar, Brooks, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Kothmann, Mauzy, McKnight, Ogg, Parker, Richards, Santiesteban, Sarpalius, Travis, Truan, Uribe, Vale, Williams.

Nays: Blake, Brown, Jones, Leedom, Meier, Mengden, Short, Snelson, Traeger, Wilson.

On motion of Senator Ogg and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

**HOUSE BILL 603 ON THIRD READING**

Senator Ogg moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 603 be placed on its third reading and final passage.

(President in Chair)

The motion prevailed by the following vote: Yeas 30, Nays 1.

Yeas: Andujar, Blake, Brooks, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Brown.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### HOUSE BILL 2046 ON SECOND READING

On motion of Senator Glasgow and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2046**, Relating to smoke detectors in residential dwelling units which are rented or leased.

The bill was read second time.

Senator Glasgow offered the following committee amendment to the bill:

Amend House Bill 2046 by striking SECTION 12, and substituting in lieu thereof the following:

“SECTION 12. EXEMPTIONS. This Act shall not apply to dwelling units which are owner-occupied and not rented or leased to a tenant, in whole or in part. This Act shall not apply to dwelling units in a building over four stories in height if a local ordinance is adopted to require or regulate smoke detectors in the building. Nursing and Convalescent Homes licensed by the State Health Department and certified to meet the Life Safety Code under Federal Law and regulations shall be exempt from the provisions of this Act.”

The committee amendment was read and was adopted.

On motion of Senator Glasgow and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### RECORD OF VOTES

Senators Wilson and Short asked to be recorded as voting “Nay” on the passage of the bill to third reading.

#### HOUSE BILL 2046 ON THIRD READING

Senator Glasgow moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2046** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams.

Nays: Short, Wilson.

The bill was read third time and was passed.

#### RECORD OF VOTE

Senator Wilson asked to be recorded as voting "Nay" on the final passage of the bill.

#### HOUSE BILL 1828 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1828**, Relating to local community development programs.

The bill was read second time.

Senator Traeger offered the following committee amendment to the bill:

Amend House Bill 1828, page 5, line 10 after Act of 1949, add the following: "or federally assisted new communities assisted in the form of loan guarantees under Title X of the National Housing Act and a portion of the federally assisted area has received grants under Section 107 (A) (1) of the Housing and Community Development Act of 1974, as amended."

The committee amendment was read and was adopted.

On motion of Senator Traeger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### RECORD OF VOTE

Senator Leedom asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### HOUSE BILL 1828 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1828** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Mauzy, McKnight, Meier, Ogg,

Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Leedom, Mengden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

#### HOUSE BILL 307 ON SECOND READING

On motion of Senator Vale and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 307**, Relating to the funding of basic skills competency testing in public schools.

The bill was read second time.

Senator Mengden offered the following amendment to the bill:

Amend **H.B. 307** by renumbering Sections 2 and 3 as Sections 3 and 4 and inserting a new Section 2 to read as follows:

“SECTION 2. Subchapter 2, Chapter 21, Texas Education Code, as amended, is amended by adding Section 21.917 to read as follows:

Sec. 21.917. LIMITATIONS ON TESTING. No student shall be required, as part of any applicable program to submit to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the purpose is to reveal information concerning:

- (1) political affiliations
- (2) mental or psychological problems potentially embarrassing to the student or his family;
- (3) sex behavior and attitudes;
- (4) illegal, anti-social, self-incriminating and demeaning behavior;
- (5) critical appraisals of other individuals with whom respondents have close family relationships;
- (6) legally recognized privileged and analogous relationships, such as those of lawyers, physicians and ministers; or
- (7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program), without the prior consent of the student (if the student is an adult or emancipated minor) or in the case of unemancipated minor, without the prior written consent of the parent.”

The amendment was read.

Senator Vale raised a Point of Order on further consideration of the amendment, stating it was not germane to the bill.

The President sustained the Point of Order.

The bill was passed to third reading.

**HOUSE BILL 307 ON THIRD READING**

Senator Vale moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 307** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed.

**COMMITTEE SUBSTITUTE HOUSE BILL 738 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 738**, Relating to creation of offenses relating to the sale of tickets to athletic or entertainment events.

The bill was read second time and was passed to third reading.

**RECORD OF VOTE**

Senator Meier asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**COMMITTEE SUBSTITUTE HOUSE BILL 738 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 738** be placed on its third reading and final passage.

(President Pro Tempore Traeger in Chair)

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Mengden, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Meier.

Present-not voting: Ogg.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1, Present-not voting 1. (Same as previous roll call)

**SENATE RULE 103 SUSPENDED**

On motion of Senator Farabee and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider today at 5:30 o'clock p.m. the following bills:



**H.B. 2290**

**H.B. 2173**

**SENATE RULE 103 SUSPENDED**

On motion of Senator Farabee and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Intergovernmental Relations might consider **H.B. 2336** today.

**SENATE RULE 103 SUSPENDED**

On motion of Senator Blake and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider **H.C.R. 206** today.

**SENATE RULE 103 SUSPENDED**

On motion of Senator Doggett and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Intergovernmental Relations might consider **H.B. 211** today.

**SENATE RULE 103 SUSPENDED**

On motion of Senator Truan and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Education might consider **S.R. 792** today.

**SENATE RULE 103 SUSPENDED**

On motion of Senator Mengden and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider **H.J.R. 84** today.

**CONFERENCE COMMITTEE ON HOUSE BILL 872 DISCHARGED**

On motion of Senator Jones and by unanimous consent, the Senate Conference Committee on **H.B. 872** was discharged.

**CONFERENCE COMMITTEE REPORT  
SENATE BILL 127**

Senator Meier submitted the following Conference Committee Report:

Austin, Texas  
May 29, 1981

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill 127 have met and

had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MEIER  
DOGGETT  
BROWN  
BROOKS  
McKNIGHT  
On the part of the Senate

LEWIS  
JONES  
MALONEY  
NABERS  
UHER  
On the part of the House

**CONFERENCE COMMITTEE REPORT  
SENATE BILL 127**

**A BILL TO BE ENTITLED  
AN ACT**

relating to the criminal justice division in the governor's office, the criminal justice division advisory board, the criminal justice planning fund, and to the allocation, distribution, reporting and use of additional court costs imposed for the conviction of certain crimes; authorizing appropriations; amending Chapter 417, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 4413 (32a), Vernon's Texas Civil Statutes), by adding Sections 6, 7, and 8; amending Chapter 935, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1083, Vernon's Texas Code of Criminal Procedure) by amending Sections 1, 4, 7, 9, 10, and 11 and Subsection (a) of Section 3; and amending Subsections (e) and (f), Section 9B, Chapter 546, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 4413 (29aa), Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 417, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 4413(32a), Vernon's Texas Civil Statutes), is amended by adding Sections 6, 7, and 8 to read as follows:

"Section 6. (a) The governor shall establish a Criminal Justice Division within his office to perform the following duties:

"(1) to advise and assist the governor in developing policies, plans, programs, and proposed legislation for improving the coordination, administration, and effectiveness of the criminal justice system;

"(2) to administer the Criminal Justice Planning Fund;

"(3) to prepare a state comprehensive criminal justice plan, to update the plan annually, based on an analysis of the state's criminal justice problems and needs, and to encourage identical or substantially similar local and regional comprehensive criminal justice planning efforts;

"(4) to establish goals, priorities, and standards for programs and projects to improve the administration of justice and the efficiency of law enforcement, the judicial system, prosecution, criminal defense, and adult and juvenile corrections and rehabilitation;

“(5) to award grants to state agencies, units of local governments, school districts, and private, non-profit corporations from the Criminal Justice Planning Fund for programs and projects which address the goals, priorities, and standards established in the state comprehensive criminal justice plan and local and regional comprehensive criminal justice plans;

“(6) to apply for, obtain, and allocate for the purposes of this section any federal or other funds which may from time to time be made available for programs and projects which address the goals, priorities, and standards established in or which assist the local and regional comprehensive criminal justice planning efforts;

“(7) to administer the funds provided by this Act in such a manner as to ensure that grants received under this section do not supplant state or local funds;

“(8) to establish procedures and policies that require that the costs of programs and projects funded to local general purpose units of government be assumed over a period of five years out of local revenues;

“(9) to monitor and evaluate programs and projects funded under this section, to cooperate with and render technical assistance to state agencies, and local governments seeking to reduce crime or enhance the performance and operation of the criminal justice system, and to collect from any state or local government entity information, data, statistics, or other material necessary to carry out the purposes of this section;

“(10) to submit a biennial report to the Legislature reporting the division's activities during the preceding biennium including the comprehensive state criminal justice plans and such other studies, evaluations, crime data analyses, reports, or proposed legislation as the governor may deem appropriate or as the legislature may from time to time request; and

“(11) to perform such other duties as may be necessary to carry out the duties enumerated above and adopt such rules, regulations, and procedures as may be necessary.

“(b) The governor shall appoint a director for the division to serve at the pleasure of the Governor. The appointment is subject to senate confirmation.

“(c) When any local grant application is submitted to the Criminal Justice Division, it shall also be submitted to the local governing body for comment as determined by rules of the board.

“Section 7. (a) The Criminal Justice Division Advisory Board shall consist of 21 members. The governor, lieutenant governor and speaker of the house of representatives shall each appoint one-third of the members of the board. The board shall review and make recommendations to the governor on the projects and programs recommended for funding by staff of the division, the goals, priorities, and standards recommended by staff, the comprehensive criminal justice plan, and on such other matters related to criminal justice as the governor may request. The governor shall designate a chairman and vice-chairman of the board from among the members.

“(b) The members of the advisory board, including the chairman, shall be subject to confirmation by the senate, except elected officers. In this Act, ‘elected officer’ has the meaning given in Section 2, Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9b, Vernon's Texas Civil Statutes). The chairman and members shall be selected from professional law enforcement, judicial, prosecution, adult and juvenile corrections, postsecondary law enforcement education, and rehabilitation agency personnel, other criminal justice personnel, state and local officials, and private citizens. The members shall serve for two-year terms. Service on the board by state and local officials and employees shall be considered as an additional duty of their office or employment and shall not be construed as dual office holding.

"(c) Board members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses incurred in performing their duties. In the event of a vacancy on the board the appointing authority shall appoint, subject to senate confirmation, a new member to fill the remaining portion of the unexpired term.

"(d) The Director of the Criminal Justice Division shall sit as an ex officio, nonvoting member of the board.

"(e) The governor, the lieutenant governor, and the comptroller of public accounts shall sit as the executive funding committee of the Criminal Justice Division. No grant of funds shall be made to any applicant nor shall funds be released for any project of the Criminal Justice Division without the approval of the majority of the executive funding committee. The executive funding committee shall not approve the release of grant funds for the acquisition of electronic surveillance equipment unless and until use of such equipment is authorized by the legislature. No grant funds shall be used in any manner to influence the outcome of any election or the passage or defeat of any legislative measure.

"Section 8. The Criminal Justice Division and any project funded by the Criminal Justice Division shall be subject to examination, inspection, and audit by the State Auditor's Office, the Legislative Budget Board, and the Governor's Division of Planning Coordination to determine compliance with this Act and the approved annual comprehensive criminal justice plans."

SECTION 2. Section 1, Chapter 935, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1083, Vernon's Texas Code of Criminal Procedure), is amended to read as follows:

"Section 1. The purpose of this Act is to continue in existence the special fund known as the Criminal Justice Planning Fund, to provide for the continued use of this fund for assistance to state and local law enforcement, judicial, prosecutorial, criminal defense, and adult and juvenile correctional and rehabilitative agencies; to provide for the continued administration of this fund; to provide for costs of court as the source of this fund, and to provide that the costs be borne in part by those who necessitate the establishment and maintenance of the criminal justice system. [~~The purpose of this Act is to create and establish a special fund to be known as the Criminal Justice Planning Fund to provide the State and local funds required by Public Law 90-351, Title I, Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide for costs of court as the source of these funds, and to provide that the costs to be borne in part by those who necessitate the establishment and maintenance of the criminal justice system.~~]"

SECTION 3. Subsection (a), Section 3, Chapter 935, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1083, Vernon's Texas Code of Criminal Procedure), is amended to read as follows:

"(a) The sum of \$5.00 [~~\$2.50~~] shall be taxed as costs of court, in addition to other taxable court costs, upon conviction in each misdemeanor case in which original jurisdiction lies in courts whose jurisdiction is limited to a maximum fine of \$200.00 only."

SECTION 4. Section 4, Chapter 935, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1083, Vernon's Texas Code of Criminal Procedure), is amended to read as follows:

"Section 4. The sum of \$10.00 [~~\$5.00~~] shall be taxed as costs of court in addition to other taxable court costs, upon conviction in each misdemeanor case, including cases in which probation is granted, and the sum of \$20.00 [~~\$10.00~~] shall be taxed as costs of court, in addition to other taxable court costs, upon conviction in each felony case, including cases in which probation is granted, in

all cases in which original jurisdiction lies in courts whose jurisdiction is limited to fines and/or confinement in a jail or the department of corrections.”

SECTION 5. Section 7, Chapter 935, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1083, Vernon's Texas Code of Criminal Procedure), is amended to read as follows:

“Section 7. The custodians of the municipal and county treasuries with whom funds collected under this Act are deposited shall keep records of the amount of funds collected under this Act which are on deposit with them, and shall on or before the last day of the month following each calendar quarter period of three months ~~(the first day of January, April, July and October of each year)~~ remit to the Comptroller of Public Accounts funds collected under this Act during the preceding quarter. The municipal and county treasuries are hereby authorized to retain ~~ten~~ five percent ~~(10%)~~ (5%) of funds collected under this Act as a service fee for said collection.”

SECTION 6. Section 9, Chapter 935, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1083, Vernon's Texas Code of Criminal Procedure), is amended to read as follows:

“Section 9. The legislature shall determine and appropriate the necessary amount from the Criminal Justice Planning Fund to the Criminal Justice Division of the Governor's Office for expenditure for state and local criminal justice projects and for costs of administering the funds for such projects. The Criminal Justice Division shall allocate not less than twenty percent (20%) of these funds to juvenile justice programs. The distribution of the funds to local units of government shall be in an amount equal at least to the same percentage as local expenditures for criminal justice activities are to total state and local expenditures for criminal justice activities for the preceding state fiscal year. Funds shall be allocated among combinations of local units of government taking into consideration the population of the combination of local units of government as compared to the population of the state and the incidence of crime of the combination of local units of government as compared to the incidence of crime of the state. All funds collected shall be subject to audit by the comptroller of public accounts. All funds expended shall be subject to audit by the state auditor. Additionally, all funds collected or expended shall be subject to audit by the Governor's Division of Planning Coordination. [The funds so deposited in the Criminal Justice Planning Fund are hereby appropriated to the expenditure of State and local matching funds required by Public Law 90 351, Title I, Omnibus Crime Control and Safe Streets Act of 1968 as amended by the Omnibus Crime Control Act of 1970 and determined by the appropriations of Congress to carry out the provisions of said Act. The expenditure of Criminal Justice Planning Funds shall be simultaneous with the expenditure of federal funds.]”

SECTION 7. Section 10, Chapter 935, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1083, Vernon's Texas Code of Criminal Procedure), is amended to read as follows:

“Section 10. The Legislature may appropriate the unobligated ~~[unexpended]~~ balance of the Criminal Justice Planning Fund ~~[Funds]~~ for the preceding biennium for the improvement and upgrading of the criminal justice system ~~[as defined in the aforementioned federal Act].~~”

SECTION 8. Section 11, Chapter 935, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1083, Vernon's Texas Code of Criminal Procedure), is amended to read as follows:

“Section 11. (a) All officers collecting funds due as costs under this Act shall file the reports required under Articles 1001 and 1002, Code of Criminal Procedure, 1925 ~~[1965]~~.

"(b) If no funds due as costs under this section have been collected in any quarter, the report required for each quarter shall be filed in the regular manner, and the report shall state that no funds due under this section were collected."

SECTION 9. Subsections (e) and (f), Section 9B, Chapter 546, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 4413 (29aa), Vernon's Texas Civil Statutes), are amended to read as follows:

"(e) (1) All officers collecting court costs under this section shall file the reports required by Articles 1001 and 1002, Code of Criminal Procedure, 1925.

"(2) If no funds due as costs under this section have been collected in any quarter, the report required for each quarter shall be filed in the regular manner, and the report shall state that no funds due under this section were collected."

"(f) The custodians of the municipal and county treasuries shall keep records of the amount of funds on deposit collected under this section, and shall on or before the last day of the month following each calendar quarter period of three months [the tenth day of December, March, June and September of each year] remit to the Comptroller of Public Accounts the funds collected under this section during the preceding quarter. Each city and county collecting funds under this section is hereby authorized to retain ten [five] percent (10%) [(5%)] of the funds collected by them as a service fee for said collection. All funds collected shall be subject to audit by the Comptroller of Public Accounts. All funds expended shall be subject to audit by the State Auditor. Additionally, all funds collected or expended shall be subject to audit by the Governor's Division of Planning Coordination."

SECTION 10. This Act takes effect September 1, 1981.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### HOUSE BILL 1269 ON SECOND READING

Senator Leedom raised the Point of Order that the time had arrived for the consideration of **H.B. 1269**. (The bill was read second time, and left with an amendment by Senator Vale pending and postponed until 4:00 o'clock p.m. today.)

The President sustained the Point of Order and laid before the Senate on its second reading and passage to third reading:

**H.B. 1269**, Relating to pilot programs on teacher evaluation.

The following pending amendment by Senator Vale was read:

Amend **H.B. 1269** by deleting subsection "d" sec 13.907 lines 50 thru 53 and renumbering the following section accordingly.

Question - Shall the amendment be adopted?

**SENATE PAGES EXCUSED**

On motion of Senator Snelson and by unanimous consent, the Senate Pages were excused for the remainder of the day.

**HOUSE BILL 1269 ON SECOND READING**

The Senate resumed consideration of **H.B. 1269** on its second reading and passage to third reading with an amendment by Senator Vale pending.

Question - Shall the amendment be adopted?

On motion of Senator Leedom, the pending amendment by Senator Vale was tabled by the following vote: Yeas 19, Nays 8.

Yeas: Andujar, Blake, Brooks, Brown, Farabee, Glasgow, Harris, Howard, Jones, Leedom, Meier, Mengden, Richards, Short, Snelson, Traeger, Travis, Williams, Wilson.

Nays: Caperton, Doggett, Kothmann, Parker, Santiesteban, Sarpalius, Truan, Vale.

Absent: Mauzy, McKnight, Ogg, Uribe.

Senator Caperton offered the following amendment to the bill:

Amend **H.B. 1269**, printed version, by:

1. inserting after "teacher" on page 1, lines 8, 12, 39 and on page 2, line 6 the words "and building administrator";
2. inserting after "teachers" on page 1, lines 15, 20, 23, 46 and on page 2, line 4 "and building administrators";
3. striking "teaching" on page 1, line 16;
4. inserting after "teaching" on page 1, line 18 "and administrative";
5. striking "of all teachers" on page 1, line 42;
6. striking "teacher" on page 1, line 61, and page 2, line 2.

The amendment was read.

(President in Chair)

On motion of Senator Leedom, the amendment was tabled by the following vote: Yeas 16, Nays 12.

Yeas: Andujar, Blake, Brown, Farabee, Harris, Howard, Jones, Leedom, Meier, Mengden, Richards, Short, Snelson, Traeger, Travis, Wilson.

Nays: Brooks, Caperton, Doggett, Glasgow, Kothmann, Mauzy, Santiesteban, Sarpalius, Truan, Uribe, Vale, Williams.

Absent: McKnight, Ogg, Parker.

The bill was passed to third reading.

**RECORD OF VOTES**

Senators Uribe, Kothmann, Doggett and Mauzy asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**MOTION TO PLACE HOUSE BILL 1269 ON THIRD READING**

Senator Leedom moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 1269 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 18, Nays 10. (Not receiving four-fifths vote of Members present)

Yeas: Andujar, Blake, Brooks, Brown, Farabee, Harris, Howard, Jones, Leedom, Meier, Mengden, Richards, Short, Snelson, Traeger, Travis, Williams, Wilson.

Nays: Caperton, Doggett, Glasgow, Kothmann, Mauzy, Santiesteban, Sarpalius, Truan, Uribe, Vale.

Absent: McKnight, Ogg, Parker.

**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

S.B. 1020 Signed subject to  
Sec. 49a, Art. III,  
Constitution of State  
of Texas  
(Again signed)

H.B. 254  
H.B. 360  
H.B. 411  
H.B. 521  
H.B. 542  
H.B. 697  
H.B. 790  
H.B. 1119  
H.B. 1214  
H.B. 1334  
H.B. 1727  
H.B. 1729  
H.B. 1899  
H.B. 1903  
H.B. 1542  
H.B. 1582  
H.B. 1624  
H.B. 1694  
H.B. 1884  
H.B. 2062  
H.B. 2098  
H.B. 2195  
H.B. 2292



H.B. 2296  
H.B. 2299  
H.B. 2303  
H.B. 2305  
H.B. 2330  
H.B. 2331  
H.C.R. 49  
H.C.R. 58  
H.C.R. 73  
H.C.R. 76  
H.C.R. 80  
H.C.R. 93  
H.C.R. 113  
H.C.R. 148  
H.C.R. 159

#### SENATE RESOLUTION ON FIRST READING

On motion of Senator Truan and by unanimous consent, the following resolution was introduced, read first time and referred to the Committee indicated:

S.R. 792 by Truan Education  
Creating an interim committee to study bilingual language programs.

#### HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read the first time and referred to the Committee indicated:

H.B. 2387, To Committee on Intergovernmental Relations.  
H.B. 2339, To Committee on Intergovernmental Relations.  
H.B. 1739, To Committee on Jurisprudence.  
H.B. 1479, To Committee on Intergovernmental Relations.  
H.B. 1673, To Committee on Economic Development.  
H.B. 161, To Committee on Jurisprudence.  
H.C.R. 210, To Committee on Human Resources.  
H.C.R. 208, To Committee on Human Resources.  
H.C.R. 209, To Committee on Human Resources.  
H.C.R. 206, To Committee on Administration.  
H.C.R. 207, To Committee on State Affairs.

#### SENATE RULE 103 SUSPENDED

On motion of Senator Doggett and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Intergovernmental Relations might consider H.B. 2387 today.

#### SENATE RULE 103 SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Finance might consider H.B. 2311 today.

**WELCOME AND CONGRATULATORY RESOLUTIONS**

**H.C.R. 194** - (Mauzy): Commending Laddie Novotny.

**H.C.R. 195** - (Traeger): Commending former State Representative W. E. (Bill) Finck.

**H.C.R. 196** - (Vale): Commending former State Representative Ronald C. Bird.

**H.C.R. 197** - (Traeger): Commending former State Representative Albert D. Brown, Jr.

**H.C.R. 203** - (Richards) Proclaiming June 1, 1981, Barry White and Paul Quinn College Day in Texas.

**H.C.R. 211** - (Parker): Congratulating the Lamar University baseball team.

**H.C.R. 175** - (Richards): Commending Jack Valenti.

**S.R. 776** - By Truan: Commending Ruben Bonilla, Jr., for his achievements as National President of the League of United Latin American Citizens.

**S.R. 777** - By Blake: Extending congratulations to the City of Lufkin on the eve of its 100th anniversary.

**S.R. 778** - By Parker: Commending Mr. and Mrs. Wilton Herbert for their financial and personal contribution to the Huguen School for Crippled Children.

**S.R. 779** - By Parker: Expressing a sincere thank you to Bob Hope and Bum Phillips for their efforts on behalf of the Huguen School for Crippled Children.

**S.R. 780** - By Doggett: Commending Edith Mae Livingston for 18 years of distinguished service at Casis Elementary School.

**S.R. 781** - By Doggett: Extending best wishes to Norman M. Whisenant upon his retirement as Principal of Casis Elementary School.

**S.R. 782** - By Farabee, Brooks: Commending the private business and professional individuals who join the state in supporting the arts and encouraging the further expansion of support of the arts.

**S.R. 783** - By Glasgow: Extending welcome to Hershel Legan, Jr.

**S.R. 784** - By Glasgow: Extending welcome to Quinalyn Morgan.

**S.R. 785** - By Glasgow: Extending welcome to Jeanne Bullock.

**S.R. 786** - By Glasgow: Extending welcome to Carol Bone.

**S.R. 787** - By Glasgow: Extending welcome to Martha Anderson.